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1.0 INTRODUCTION

Throughout the last decade of the 20th century, Washington State enjoyed a period of relative economic prosperity. With strong job growth, low unemployment, relatively high personal income, and the highest rate in the nation of new company formation, Washington State and its citizens enjoyed a prosperous decade.

But recent events have called into question whether this prosperity will continue. The national economic downturn, the drought, the energy crisis, and the events of September 11th have hit Washington especially hard, with a number of business closures in the technology sector; layoffs in the aerospace, airline, hospitality, and aluminum industries; and an agriculture and food processing sector that continues to struggle in the face of low commodity prices, rising costs, and foreign competition. Amid this downturn, many wonder whether Washington will emerge from the current recession ready to take advantage of the opportunities presented by a national economic recovery.

Every state in the nation, and every nation in the world, is asking the same question: “How will we ensure a bright economic future for ourselves and our children?” Each is devising strategies to maximize their ability to create new jobs, improve standards of living, and defend or improve the quality of life for its citizens. Washington State’s business and political leaders must act now to ensure that we have the basic tools to compete economically with other states and nations. These tools include an educated and skilled workforce, a 21st century infrastructure, a tax and regulatory environment that encourages entrepreneurship and business growth, and a desirable quality of life for all of Washington’s citizens.

1.1 Objectives

Governor Gary Locke convened the Washington Competitiveness Council to facilitate a discussion of the issues affecting Washington’s ability to compete in the global economy of the 21st century. Through this discussion, policymakers and the public learned what many Washington businesses view as the most important competitiveness issues facing our state. Businesses and the public learned of the challenges facing state and local governments in balancing competing interests and delivering public services. And all participants learned how important it is that we continue the dialogue to ensure that we move forward in advancing our state’s economic future.

The specific objectives of the Washington Competitiveness Council were to:

- Discuss key business climate issues.
- Improve public understanding of the importance of a healthy business climate to the future of Washington's economy.
- Engage the business community in advancing a competitiveness agenda.

- Identify and implement public policies that strengthen state and local governments' ability to respond to business community needs.

1.2 Process

At the Governor's direction, the Competitiveness Council was designed as a short-term group that would hold a limited number of meetings to develop recommendations for action. The full Competitiveness Council held five meetings:

- August 30
- September 18
- October 16
- November 13
- December 11

At the September 18 meeting, the members of the Competitiveness Council formed five work groups to address general competitiveness issues:

- Taxes and Fees
- Regulatory and Permitting Issues
- Physical Infrastructure
- Human Capital and Innovation
- Benchmarks and Performance Measures

Each of the subgroups met between the September and October meetings to identify the issues of highest priority. The Council discussed these issues at the Oct. 16 meeting and provided feedback to each subgroup. Then, between the Oct. 16 and Nov. 13 meeting, the workgroups developed specific recommendations for addressing the highest-priority issues. These recommendations were presented to the full Council at the Nov. 13 meeting. Each workgroup then considered input from the full Council and also used background and information provided by other interested stakeholders to refine and finalize their recommendations.

This report reflects the majority view of the Council. However, there are some instances in which all Council members do not hold the majority view. When requested, we have included throughout this report alternative views from Council members who disagree with the majority view. In addition, two minority statements appear in Section 7 of this report.

1.3 Results/outcomes

The report identifies five different types of recommendations:

- Proposed changes in statute, which require legislation.

- Proposed changes in the Washington Administrative Code (WAC), which require a formal rulemaking process within current statutory authority.
- Proposed actions that can be taken administratively by government leaders without any change in statutory authority or rules.
- Statements of position by the Council, which provide guidance to policymakers as they develop and implement policies that affect the business community.
- Benchmarks/performance measures, which the Council recommends be collected, tracked, published, and used to guide policymaking, and to evaluate the impact of changes in policy.

1.4 Follow-up

The Competitiveness Council will actively pursue implementation of the recommendations described in this report. As appropriate, members of the Competitiveness Council will individually and collectively meet with state legislators, the Governor, and local leaders to articulate the need for and urgency of these recommendations.

The Council will convene again in early 2002 to review plans for implementing these recommendations and the status of key legislative and administrative proposals. In addition, the Council will reconvene annually to accomplish the following:

- Evaluate, along with state and local leaders, progress made to date on implementation of the recommendations in the report.
- Assess changes in the competitiveness of Washington State, using the performance measures published in this report.
- Consider whether the recommendations provided in this report should be revised, given the status of Washington's competitiveness at that time.



2.0 TAXES AND FEES

2.1 Introductory Statement

Taxes and fees are significant factors that impact Washington State's ability to promote and maintain economic vitality and business competitiveness in the state. Business is an integral link to the state's long-term vitality. Businesses that compete and succeed in Washington will provide jobs for residents and generate revenue to fund essential government services. Overall levels of taxation have become a more significant element of the competitiveness equation given a global economy where businesses are able to redirect growth to other geographic locations.

2.2 Specific issues of priority

The issues of highest priority to the Competitiveness Council related to taxes and fees are:

- We must balance the need for revenue to fund essential government services with the need to maintain a competitive tax environment for business. (See 2.2.1)
- Washington's tax structure contains features that lack uniformity or are difficult to understand and apply. (See 2.2.2)
- The unemployment insurance system in Washington State has inequities in its tax structure and on a comparative basis most people would agree that taxes paid as a percentage of taxable wages is comparatively high. (See 2.2.3)
- Washington's tax structure imposes taxes in ways and on activities that other states do not. This impacts the state's attractiveness to some businesses. At the same time, the state lacks tools available to other states for attracting new investment. (See 2.2.4)
- We must evaluate Washington's comparative business tax burden to ensure that policymakers and administrators consider the impact of their actions on competitiveness. (See 2.2.5)

2.2.1 Balancing revenue needs with tax burden

Businesses examine a number of factors when they consider investing in new operations or expanding or relocating their current operations. The relative tax burden on business, compared to other states, is one factor that companies typically consider. Thus, state business taxes that are disproportionately high compared to other states with similar service levels can inhibit job growth and business expansion.

Washington imposes one of the highest initial tax burdens on business in the nation. Various studies rank Washington among the top 6 in different measures of business tax

burden. Businesses in Washington pay 51 percent of major Washington taxes, while households pay 49 percent. A high initial tax burden matters to business because it is not always easy to pass these taxes along in a globally competitive economy. Additionally, it matters in business location and expansion decisions that are on the margin, all other factors being equal.

Competitiveness also depends on the provision of essential government services. The Competitiveness Council recognizes that funding transportation infrastructure is critical to attract new businesses and maintain the profitability of our existing businesses. We must find a way to fund this critical infrastructure. State and local investment in infrastructure has the added benefit of creating jobs and boosting the economy.

The fiscal crisis that confronts state government is a result of an economic downturn and the recent national economic upheaval. The crisis threatens the health of businesses in the state of Washington and presents both a near-term and long-term challenge to our state's economy. In the near term, we will see more businesses fail, creating a greater struggle to promote our economic health and to re-start our economy over the long term.

Washington State's Tax Structure Study Committee has been convened at the direction of the Washington State Legislature and is charged with determining how well the current tax system functions and how it might be changed to better serve the citizens of the state in the 21st century.

Recommendation 1: Responding to the fiscal crisis

- The state should avoid general tax increases that will impede the ability of businesses to recover from the current economic downturn. Similarly, to maintain both certainty and a competitive climate for businesses, the state should keep existing exemptions and incentives in place.
- The Competitiveness Council applauds the Governor's efforts to address the state's fiscal crisis through thoughtful cost-cutting measures. Mindful of the fiscal crisis, the Competitiveness Council has purposely limited current recommendations that have a state General Fund impact.

Other Views: Some council members feel that it is fiscally imprudent to rule out the elimination of tax exemptions. Some also contend that an effective method for cutting costs in state government is to enact civil service reform. Corporate disclosure legislation should be enacted to help evaluate the effectiveness of an social return on our existing tax exemptions and incentives.

Recommendation 2: Transportation revenue

- Enact legislation that imposes user fees, such as tolls, increases in the gas tax, and vehicle and parking fees to provide the revenue needed to improve the transportation system. Other options, such as regional taxes and alternative funding mechanisms should also be considered.

Recommendation 3: Direction to the Tax Study Committee

The Tax Structure Study Committee should examine our state and local tax structure to promote competitiveness. Attention should be directed towards:

- **Modernization.** The current tax structure should be evaluated in terms of suitability to the new economy. For instance, the current apportionment system does not provide the best environment in which to locate either a regional or national headquarters. Likewise, alternatives to the taxation of royalty income should also be examined, such as apportioning the income. Finally, the committee should evaluate the taxation of those multi-state businesses whose products and services are almost exclusively Internet-based.
- **Equity.** Evaluate the relative tax burden of businesses and households and provide alternatives for a more balanced distribution.
- **Certainty.** Changes in state and local taxes should be gradual and well planned, and should result in certainty for both the state and business.
- **Flexibility.** Where possible, consider the elimination of dedicated funding, allowing policymakers more flexibility to respond to state and local revenue shortages.
- **Volatility.** Examine how the tax structure responds to fluctuations in the economy.

Other Views: Some members of the council recommend that the Tax Study Committee also examine the regressivity of the tax structure.

2.2.2 Clarify vague and complex tax provisions

Washington's tax law contains a number of provisions that must be clarified and simplified so that business is able to easily understand any requirements. We have chosen to focus on several in the near term.

Washington's exemption from sales and use tax for manufacturing machinery and equipment (M&E) has been a positive factor in the retention and expansion of manufacturing firms in the state of Washington. One of the motivations for the legislation was to "level the playing field" between states. The legislation was originally enacted in 1995, with amendments in 1996, 1998 and 1999. The Department of Revenue is engaged in ongoing discussions with stakeholders and the Legislature regarding application of the M&E exemption. A number of issues regarding the exemption continue to be in dispute.

In the case of taxation of investment income, a lack of clarity threatens existing investment in Washington and affects the location of new investment activities.

For municipal taxation, the current system of authorizing and imposing city business taxes poses problems due to the lack of uniformity in the local tax structure, the

complexity and cost of compliance with each jurisdiction's tax code, and the potential for multiple taxation of income.

Recommendation 1: M&E exemption

- The Department of Revenue, working with stakeholders, including both industry and local government, shall review its practices with respect to administration of the M&E.

Recommendation 2: Municipal tax simplification

- Enact legislation that reflects the following standards: Uniformity; local control; revenue neutrality; simplicity; nexus; fairness; and no multiple taxation.
- The legislation should embody the points agreed to by business representatives and the cities in the Municipal Tax Work Group. Areas of disagreement should continue to be discussed, with a goal of following up in 2003 with additional legislation. Partial progress paves the way for an eventual resolution of the remaining issues, which in the long run will improve the state's business climate. An executive summary of the recommendations of the Municipal Tax Workgroup appears in Appendix A.

Other Views: The American Federation of State, County, and Municipal Employees Union Council 2 should be included in discussions involving drafting and lobbying municipal tax simplification legislation.

Recommendation 3: Clarification of investment income

- Enact legislation to clarify the current law on the business and occupation (B&O) tax deduction of investment income. This legislation should: (1) define lending activity to identify the activity of "financial businesses;" and (2) clearly describe investments.
- The proposed legislation defines a lending business as one in which the revenues received from extensions of credit are greater than 50 percent of gross revenue and expenditures in support of such activity are greater than 50 percent of total expenditures. The legislation allows the deduction from B&O for income from investments by those not engaged in banking or lending activities. The proposal explains that the financial income that is subject to B&O tax is all otherwise nonexempt gross income of financial institutions, securities firms, lending businesses, from accounts receivable and of lending income for all businesses.
- The proposed change will positively impact the competitiveness of the state by removing a disincentive to locating investment activities in Washington, will provide greater predictability for tax planning purposes, will allow flexibility for entrepreneurial businesses (availability of venture capital), and will have a positive impact on innovation and research and development.

Fiscal estimate: \$3.6 million for FY 2003, the first full year, and \$4.2 million for the biennium. The full text of the proposed legislation on investment income appears in Appendix B.

2.2.3 Unemployment insurance tax burden and inequities

The Washington State Unemployment Insurance (UI) system has developed a number of inequities in its tax structure, a primary one being the character and scale of the costs spread among all employers. The UI system also provides high benefits, both in wage replacement and duration, as a counter-cyclical engine to economic conditions. With the downturn in the economy, UI Trust Fund reserves will likely be drawn down with increasing unemployment insurance claims coupled with attempts to use the UI fund for non-traditional uses. The Competitiveness Council urges the Governor and the Legislature to use these guiding principles to make Washington a more competitive venue for business.

Guiding Principles:

Fairness

Subsidization of some employers by others is a principal cause of UI tax inequity. Some employers are paying more than their share of unemployment benefit costs and have been doing so for years. Other employers do not pay enough in UI taxes to cover all charged benefits, resulting in “socialized costs.” The subsidized nature of the UI system has led some of the state’s more stable employers to incur higher costs than they would under a system that is based solely upon experience of benefits paid.

Action Step: Move toward a system that better reflects the amount of UI taxes employers are paying into the UI Trust Fund and the experience of benefit charges employers incur.

Predictability

The methodology by which the taxable wage base and benefit levels are calculated results in increased costs as average wages increase. This methodology is premised on the concept that benefits and taxes should reflect wages, rather than changes in the cost of living. The state average wage is expected to increase more quickly than inflation. Hence, both the taxable wage base that employers base tax payments upon and the maximum benefit payments that contribute to employer experience rating will increase more quickly than living costs.

Action Step: Limit taxes and benefits by controlling the increase in wages with a calculation that indexes taxable wage to inflation, possibly the Implicit Price Deflator (IPD).

Other Views: Some council members argue that the UI system is a wage replacement system and therefore growth in the state’s average wage is the only relevant measure of growth in benefits and UI taxes.

Stability

The fiscal solvency of the UI system is based upon its ability to pay benefits during an economic downturn. Specifically, this is determined by assessing the worst economic years in the system's experience for a period of 20 years (or more if no recession falls within this period) and its ability to pay benefits during a similar period. Currently, the Washington State UI system ranks just above the national average in solvency and the program has the fund balance to pay out benefits for slightly less than a year during a recession.

Action Step: Maintain adequate reserves to ensure benefits and UI Trust Fund solvency.

Limit the purposes for which the UI Trust Fund is used, avoiding changes such as paying benefits for reasons that have not traditionally been associated with unintentional job loss or programs associated with other human service payment mechanisms.

Other Views: The best way to make sure that there are adequate reserves in the system is to allow the system to work the way it is supposed to work. This includes allowing tax schedule shifts to occur when they are triggered and not to arbitrarily limit tax shifts. Additionally, declaring no new benefits beyond what has been traditional ignores changes in our workforce and workplaces and is not relevant to the solvency issue.

2.2.4 System dissimilarity with other states – economic strategies

Many other states have economic development tools designed to attract businesses to their area. Some of these tools, such as tax increment financing, are designed to fund infrastructure essential to newly relocating or expanding businesses while creating an economic stimulus by creating construction jobs. Other incentives, like Oregon's strategic investment program, are based on property tax abatement. In Washington State, the status and applicability of tax increment financing is unclear. We are also hampered by the prohibitions in the Washington State Constitution for the lending of the state's credit and the requirement of uniformity for taxation of property. These restrictions narrow the options available to the state.

Washington's tax structure is different from other states in many respects. Companies considering expanding or relocating to Washington are faced with an unfamiliar system. For example, while state tax systems are not directly comparable, Washington State's taxation of the entire construction contract is unusual. In 33 states, the materials portion of construction is taxed, rather than the overall construction contract, which typically includes labor, materials, and other costs. Similarly, the structure of the B&O, which taxes gross income as opposed to net income, has a negative impact on start-up businesses with low margins. In other states, companies do not have to pay taxes until they are actually making a net profit.

While these issues have been identified as opportunities, given the current fiscal environment, there is not the critical immediacy associated with their resolution. When the state is again fiscally balanced, they should be noted and addressed as resources become available.

There are other strategies that can be implemented without a fiscal impact, such as portions of the industrial cluster strategy proposed by the state Office of Trade and Economic Development. This concept offers the state a way to address specific industries, and it recognizes the diversity of Washington businesses.

Washington has taken prudent steps to increase the competitiveness of its tax structure by adopting the machinery and equipment exemption, and by passing the 1997 intangible property tax exemption. In the present economic climate, preserving these existing tax policies will be important in demonstrating the ongoing commitment of the state to responsible business taxation.

Recommendation 1: Tax increment financing

- The Governor should continue to explore the use of this mechanism, keeping in mind the three main issues that complicate the area of tax increment financing (TIF):
 - ✓ Under the state constitution, the state portion of property tax is dedicated to schools. Therefore, that money is not available for other uses.
 - ✓ The issue of whether a TIF violates the uniformity clause of the state constitution has not been addressed and presents a risk.
 - ✓ Any increment of the B&O tax would be very difficult to assign to a taxing district or improvement area because (a) state B&O is reported on a statewide basis and not broken down by political subdivision or taxing district; and (b) sales and use tax incidence and sourcing presents some obstacles to a simple solution.

Other Views: Some council members have expressed concern about the use of tax increment financing. These concerns include the impact of TIF on patterns of development and its potential fiscal impact on counties. They also contend that restrictions are needed on the size, type, duration, and geographic area of a project, and that the substitution effects of any TIF legislation should be carefully considered.

Recommendation 2: Eliminate sales tax on construction contracts

- Continue to monitor this tax treatment, with the possibility of revising the taxability of construction through a legislative change.

Fiscal estimate of taxing only materials: \$806 million loss in the 2001-03 Biennium.

Other Views: Some members oppose the elimination of the sales tax on construction due to its fiscal impact, unless alternative revenues are identified.

Recommendation 3: Change the taxation of start-up businesses

While this approach makes sense on its face, it has some barriers. Distinguishing totally new businesses from reconfigured old businesses is very difficult. A new business is not necessarily by definition a business that needs a tax incentive – some new businesses are very profitable from the outset. In addition new businesses compete with existing businesses, presenting some inequities if tax incentives are limited to new businesses. A narrower, targeted approach is suggested, such as focusing on a cluster or industry and providing an enhanced small business credit or a jobs credit.

The subgroup recommends that the following alternatives be considered in addressing this issue:

- Increase small business credit for all businesses.
- Increase small business credit for targeted industries (high tech or an emerging sector).
- Provide B&O exemption for start-ups of targeted industries (high tech or an emerging sector).
- Reduce B&O rates for start-ups.

Fiscal estimate for alternatives:

	Number impacted	Cost, Millions
Double the small business credit from \$35 to \$70 per month	50,000	\$27.9
Double small business credit for high tech firms	3,000	\$1.3
Provide B&O exemption for high tech start-ups (3 years or less)	3,300	\$30.5
Reduce B&O rate 10% for all start-ups (3 years old or less)	57,000	\$30.1

Other Views: Some members of the council argue that before enacting new tax exemptions, we must examine the benefits and costs.

Recommendation 4: Property tax on capital-intensive industries

- Because of the constitutional issues with providing property tax relief to private industrial properties, the state Revenue Department should continue to evaluate other means of providing an incentive to capital-intensive firms. For example, over the long-term, the greatest disparity in tax burden between Oregon and Washington regarding capital-intensive firms lies with sales tax on construction. With that in mind, alternatives such as a sales tax exemption for construction of new or expanded facilities should be considered.

Other Views: Some council members oppose a property tax exemption for new or expanded industrial facilities due to its direct fiscal impact and its potential to shift the property tax burden to residential payers.

Recommendation 5: High technology innovations in the field of energy development

- The Governor should continue to examine ways to stimulate investment in innovative strategies for energy development and conservation, including tax credits and exemptions.

2.2.5 Need for benchmarking

The Competitiveness Council's Benchmarking Subcommittee has recommended that the Governor adopt key performance measures relating to the state's overall competitiveness. It is critical that key measures be adopted relating to taxes and fees. The Competitiveness Council believes that the benchmarking system should meet several goals:

- The state's level of business taxes relative to other states should be tracked. As well, it is important to measure the state's performance against itself over time.
- The data used in benchmarking should include both state and local taxes.
- Unemployment insurance taxes and benefits and workers' compensation taxes need to be tracked along with other taxes.
- In order for benchmarking to be relevant, the state needs to use a near-term indicator in addition to other data

Recommendation

- The Governor should incorporate benchmarks into the state's internal evaluation and review process. In general, carefully selected benchmarks can facilitate focus and attainment of a long-term strategic direction. The benchmarks serve as a measurement tool for evaluating the impact of alternative policy options and provide an ongoing barometer of the state's position relative to other states and relative to itself over time. The underlying data should be as current and meaningful as possible.

State and local taxes:

- State and local tax collections per \$1,000 of personal income. (Source: *Comparative State and Local Taxes 1999*, Washington Department of Revenue)

Fiscal Year 1999 data:

WA:	\$111.25
WA Rank	17th (1 = highest burden)

- Share of Washington's taxes paid by business—12 taxes (retail sales, use, property, B&O, real estate excise, cigarette, tobacco, public utility, beer, wine, liquor sales, and liquor liter). (Source: Washington State Department of Revenue)

Fiscal Year 2000 data:

Washington: 51%

Unemployment insurance

- Effective UI Tax Rate: Total Unemployment Insurance taxes paid divided by total wages. (Source: Washington State Economic Climate Study)
- Wage Replacement Rate: Average weekly benefit divided by average weekly wage. (Source: Washington State Employment Security Department)

Other measures to consider:

- Unemployment Insurance Costs per Unemployment Rate: Effective unemployment insurance tax rate divided by the 3-year average unemployment rate. (Source: Washington State Economic Climate Study, Washington State Employment Security Department)
- Counter-Cyclical Job Creation Effect: Estimated jobs created as a result of household expenditure of unemployment insurance benefits, divided by total employment. Jobs created are based upon the employment multiplier for household spending (I-O model). (Source: Washington State Employment Security Department)
- Fund Solvency: Unemployment Insurance Trust Fund as a percentage of total wages divided by the average of the three highest calendar year benefit cost rates over the previous 20 years, or a period including three recessions if longer. (Source: Washington State Employment Security Department and US Department of Labor)
- Benefit Paid Relative to Wage Loss: Total benefits paid divided by the estimated wage loss. Wage loss is defined as total unemployment multiplied by the state median wage (if median wage is not available, then use state average wage). (Source: Washington State Employment Security Department)

Workers' compensation

- Workers' compensation premium costs. (Source: Washington State Economic Climate Study)



3.0 ENVIRONMENTAL REGULATORY AND PERMITTING SYSTEM

Over the last 30 years, many local, state, and federal laws have been enacted to address a wide range of environmental problems. Implementation of these laws has produced significant gains in protecting Washington's environment and the health of its citizens. However, instead of being adopted pursuant to a cohesive and rational plan, these laws have generally been adopted in response to specific environmental concerns that have arisen in isolation over the years. This has resulted in a complicated and fragmented system of regulatory protections implemented by numerous regulatory agencies. Each agency generally has the same goal -- to protect the environment. However, each agency has different powers, operating procedures, and idiosyncrasies. Understandably, each can feel quite protective of its particular jurisdiction.

This vast uncoordinated patchwork of laws and regulatory agencies has greatly impacted the ability of businesses to develop in Washington State. This negative impact on business development can be traced to many problems inherent in Washington's environmental permitting and regulatory system. This section describes the specific underlying problems with the current system, and lists the specific negative ramifications of the underlying problems. It is important to differentiate between the negative ramifications and the underlying problems themselves. The negative ramifications are simply symptoms of the underlying problems, problems that are rooted in the ad hoc manner in which Washington's environmental regulatory system has evolved.

The Competitiveness Council strongly believes that the environmental protections provided by the regulatory system are needed and beneficial to every resident and business in Washington. None of the recommendations are intended to weaken Washington State's environmental safeguards. To the contrary, by undertaking the council's recommendations, environmental protection in Washington should be strengthened because the regulatory system will become more efficient, allowing the agencies to employ their resources more effectively.

The regulatory subcommittee has identified three priority issue areas from which specific recommendations are listed below. The three priority areas are:

1. Improve and fundamentally change the relationship between agencies and businesses.
2. Change permitting activities within agencies.
3. Meet the goals of the Growth Management Act.

3.1 Underlying Problems with the Current Regulatory System

Most of the problems with the current environmental regulatory system result from the piecemeal fashion in which it was created. These problems include the following:

- Too many decision-making bodies.
- Duplicative enforcement of the laws (i.e., enforcement of the same laws by different agencies).
- State agencies acting outside of their jurisdiction in areas that a different federal or state agency already regulates.
- State agencies attempting to enforce or apply non-delegated and/or delegable federal laws.
- Time limits for decisions are too lengthy, and there are not effective ways to force agencies to comply with them.
- Too many different sets of rules and regulations.
- Too many appellate bodies.
- In some circumstances, too much discretion given to government agencies -- not enough bright line rules.
- Policy/program arm of agencies try to change rules during individual permitting processes.
- Decision-making is process-based rather than outcome-based.

3.2 Negative Effects of the Problems

The underlying problems result in the following unnecessary negative effects (at a minimum) on Washington's environment, regulatory agencies, and business community.

- Project delay that does not assure greater environmental protection.
- Pollution is often simply transferred from one media to another instead of actually controlled or reduced.
- Increased project costs.
- Reduced operating flexibility for Washington businesses.
- Increased barriers to entry for new and potentially innovative businesses.
- Hostility towards government generally, and certain agencies in particular.
- Increased costs for the government.
- Wasted government resources.
- Low morale of government employees who are faced with angry applicants.
- Manipulation of the permitting system by project opponents.

- Project Uncertainty. As the system is currently administered, an applicant must wade into the permitting process and, while going through it, determine costs, timing, and probability of whether the permit will ever be issued.

3.3 Specific Recommendations

The Washington Competitiveness Council has identified 12 issues critical to solving the problems identified above. These issues, which are discussed in greater detail below, include the following:

- Establish state leadership for comprehensive reform of the regulatory system.
- Reinvent the Department of Ecology to increase agency accountability and responsiveness.
- Improve the relationship, and create efficiencies, between state regulatory agencies and the business community.
- Amend the Administrative Procedures Act to bring accountability to regulatory activities.
- Consolidate permit processes, reduce the number of permits required to complete a project, and improve permit coordination among the agencies.
- Reform Washington’s water rights permitting system.
- Meet the goals of the Growth Management Act.
- Create a consolidated land use code.
- Benchmark and enforce local government permitting timelines.
- Reduce the number of environmental adjudicative bodies.
- Challenge the costs and benefits of L&I’s ergonomics rule.
- Address regulatory issues affecting affordable housing.

3.3.1 Establish state leadership for comprehensive regulatory reform

Washington needs leadership charged with the goal of streamlining and generally overseeing the environmental regulatory process. This leader should act as a non-biased independent “parent” of the regulatory agencies, constantly working to improve the entire system by bettering and coordinating the different agencies, reprimanding the agencies when they act improperly, and demanding accountability at all times. This type of leadership can address a number of the problems identified in Section 1.2.

British Columbia recently created the position of Minister of Deregulation. A summary of the duties of the Minister is contained in Supplement A, at <http://www.governor.wa.gov/wcc/wcc.htm>. The Competitiveness Council does not advocate the creation of a position in Washington that is narrowly tailored to focus solely on deregulation. However, the British Columbia Minister position is a useful analogy.

Governor's Directive 97-02, *Regulatory Improvement*, which created the Governor's subcabinet on Management Improvement and Results, was a step in the right direction. However, the subcabinet was not sufficient to effect the required changes because (1) it is not independent of the agencies (in fact, it is staffed entirely by agency directors); (2) it is not focused directly on improving the environmental regulatory system; (3) it does not have the power to force agencies to change; and (4) it is not the equivalent of a full-time person with staff whose only job is to focus on improving the system.

Recommendations:

- Appoint a secretary of regulatory reform (administrative action). This Secretary must be completely independent from the environmental agencies and not beholden to the agencies in any way. Furthermore, the Secretary must have the real power to force change in the agencies such as the power to terminate under-performing agency employees or the power to conduct unannounced audits or inspections of agency buildings, processes, or finances. The Secretary position should easily pay for itself by increasing the efficiency of the environmental regulatory program.

The Secretary should accomplish the following functions:

- ✓ Perform annual in-depth, internal studies of the environmental agencies and the environmental laws to identify improvements.
- ✓ Administer cross-agency programs, such as the consolidated permit program, discussed below, that require cooperation and participation of all agencies.
- ✓ Enter into binding partnership agreements with federal agencies to determine who does what.
- ✓ Appoint lead agencies for various permitting processes.
- ✓ Require agencies to increase their efficiency, effectiveness, and professionalism. They should increase the speed at which they process permits while ensuring that standards are met. Measuring the time it takes to issue a permit would be a positive first step in achieving this goal.
- ✓ Prevent regulatory agencies from acting outside of their statutory authority.

Other Views: Some members of the Council do not think that this is the time to create a new bureaucracy given the current budget limitations facing the state. They further contend that the Governor and his staff can perform many of the functions identified above. Another concern is that although the Secretary should have strong oversight authority, the termination of state employees should follow the normal procedures given the employee's classification. Some question the assumption that the new Secretary's position will pay for itself through increased efficiencies and argue that efficiencies in state government will only come about through an effective collective bargaining process.

- Establish benchmarks for timely permit decision-making (administrative action). Require each agency to establish benchmarks for permit decision-making, such as

90% of permit decisions made by the required deadline. Actual decision-making should be measured against the benchmarks. See the Renton Case Study in Appendix C. A more comprehensive action would be to adopt a joint congressional delegation/legislative/gubernatorial directive directing Corps, Ecology, Fish & Wildlife, and National Marine Fisheries to within 6 months report on (1) average time periods for permit approval; (2) target time periods, and (3) process for meeting targets.

- Provide positive and negative incentives to state agencies and local governments that issue permits in a timely manner. (administrative action, legislation) For local governments, positive incentives could include increased funding for making a certain percent of determinations “on time” through such vehicles as Community Economic Revitalization Board (CERB) funding. For state agencies, negative incentives could include the following: (1) a review by the governor’s office of any application not granted in the allotted time period, (2) a refund of permit fees, (3) a refund of permit fees and all costs of application, and/or (4) an automatic permit. However, speed of response to permit applications should be balanced with providing adequate environmental protection. The objective of an efficient permitting system should be to ensure environmental protection while improving efficiency.
- Eliminate the practice of changing previous regulation through permit application processes. (administrative action) Agencies should not be allowed to overrule or change their own rules during the permitting process. This provides greater certainty for permit applicants who base permit applications on previously legislated or promulgated rules or regulations only to have those rules or regulations de facto overruled and changed in a subsequent adjudicative decision by the same agency. This action might be most properly or effectively undertaken by legislative action.
- Enter into Binding Contracts with Federal Agencies. (administrative action) Require the environmental agencies to enter into binding, contractual agreements with federal agencies that, in a detailed and explicit manner, delineate where federal enforcement and review powers stop and where state agency enforcement and review powers begin. The Environmental Performance Partnership Agreement (EPPA) between EPA and Ecology, while not dealing directly with the line between federal and state powers, is an example of the type of agreement in which agencies can participate.

Other Views: Some council members oppose the automatic granting of permits if a permit decision is not made within a specific time frame. For details regarding an alternative, refer to this report’s supplementary materials provided at <http://www.governor.wa.gov/wcc/wcc.htm>.

3.3.2 Reinvent the Department of Ecology to increase agency accountability and responsiveness

The Department of Ecology requires a cultural change that can result only from a thorough renovation process. Businesses often find the Department of Ecology

unresponsive and unaccountable, with a generally poor or specifically anti-development attitude.

Ecology sometimes oversteps its authority or does not follow procedures required for rule development. For example, when wetlands are involved in a development, a proponent of the development must obtain both a Clean Water Act section 404 permit from the Army Corps of Engineers and a Clean Water Act section 401 certification from the Department of Ecology. When issuing the 404 permit, the Corps undergoes an extensive review to insure compliance with the Endangered Species Act (ESA). Yet, Ecology has taken it upon itself to force the development through a second ESA compliance check before it will issue the 401 certification even though Ecology has no authority to do so. In particular, Ecology forces the development to comply with a set of rules that Ecology has developed regarding how developments be designed to comply with the ESA. Aside from being beyond Ecology's scope of jurisdiction, these rules were never formally promulgated as required under the Administrative Procedures Act.

Permit applicants face a great deal of uncertainty regarding environmental standards and requirements. This is in part due to a lack of rules that are needed; a tendency to change standards even after a permit is filed; or a lack of authority that forces Ecology to share regulatory authority with the US EPA. For example, NPDES discharge permitting is based in part on the determination of Total Maximum Daily Loading (TMDL) waste load allocations. Currently, Ecology bases these figures on computer models that assume worst-case environmental conditions and maximum discharges and Ecology reserves the right to change the requirements based on new agency interpretations.

Recommendations:

- Institute regulatory reform at the Department of Ecology following Renton's example. Over the last two years, Renton has successfully overhauled its land use permitting system without spending extra money or changing the actual law. Instead, Renton focused on its internal administrative policies, its staff's attitude, and creating accountability. Renton has cut its permit processing time in half without diminishing environmental protection and while simultaneously improving the city's revenues, job base, and quality of life. A case study of Renton's Regulatory Reform, written by Sue Carlson, Renton's Economic Development Administrator, is contained in Appendix C.
- Require Ecology to formally promulgate its 401 Certification rules. (administrative action) Ecology should cease the enforcement of these rules until it is determined that Ecology has the authority to enforce such rules and until the rules are legally promulgated
- Require Ecology to publish reliable TMDL requirements. (administrative action)
- Require Ecology to develop reliable TMDL figures upon which a development will vest upon a completed application.
- Require Ecology to Promulgate Regulations Regarding Isolated Wetlands. (administrative action) Since the Army Corps of Engineers no longer has

jurisdiction over these wetlands, developers are left with no guidance on how to treat them. This creates considerable uncertainty.

- Obtain Full Delegation of Clean Air Act Permitting. (administrative action) An Executive Directive should be issued requiring Ecology to obtain full delegation of federal permitting powers under the Clean Air Act by a certain date. Currently, for at least one type of CAA permit, an applicant must get the approval of BOTH Ecology and EPA. Furthermore, those in opposition to the permit can appeal a positive permit decision to two different appellate bodies. Ecology reports that it is working on obtaining full PSD delegation, but does not expect the process to be complete for two years.
- Consider removing the water rights system from Ecology. (legislation) As part of a thorough review of the functions of the Department of Ecology, consider legislation to transfer water rights authority to a Washington Water Resources Commission. Alternatively, Washington’s Water Resources Program could become an independent organization within Ecology similar to California’s State Water Resources Control Board.

3.3.3 Improve the relationship, and create efficiencies, between state regulatory agencies and the business community

Regulatory agencies that are unresponsive and unaccountable deter businesses from locating and expanding in Washington. As Washington becomes known as a difficult place to do business, our opportunities for bringing new business into the state may decline. We can improve that relationship by providing a single point of contact to business for managing its relationships with the state.

Recommendation:

- Create a “business ombudsman” position in OTED. (administrative action) This position, similar to a business sector account managers, will regularly interact with businesses in specific sectors to identify needs and concerns before they develop into problems.
- Expand the Master Business License program. (administrative action) Operated through the Department of Licensing, this program would allow small business owners to provide the necessary license information to one location, rather than filling out multiple forms for different state and local permits.

3.3.4 Amend the Administrative Procedure Act (RCW 34.05.001 et seq.)

The Administrative Procedures Act defines the processes agencies must follow to adopt rules that implement legislation. Currently, some provisions of the APA give too much discretion to agencies in their rulemaking process. Amendments to the APA are required to reign in agency discretion.

Recommendations:

- Amend the APA by removing the provision placing the burden of proving invalidity on the challenging party. (legislation)
- Permit a request for declaratory judgment on the validity of an agency rule to be filed in any county in the state, rather than just Thurston County. (legislation)
- Require submission of proposed rules to the governor's office prior to final promulgation.

Other Views: Some members of the Council believe that drastic changes to the APA are premature until the results of HB 1010 (1995) can be evaluated. Furthermore, some feel that amending the APA to shift the burden of proof takes us away from HB 1010 and Governor Locke's Executive Order on Regulatory Reform by creating more delay, confusion, and second guessing by the agencies in the rule making process and will inhibit the implementation and enforcement of rules. Also, it would be fiscally imprudent to allow filings in jurisdictions outside of Thurston County where the seat of state government resides

3.3.5 Consolidate permit processes, reduce the number of permits required to complete a project, and improve permit coordination among the agencies

A proponent of a major development in Washington must seek anywhere from 5-15 permits from a number of different agencies. All of these permits and all of the agencies have the same general goal--to protect the environment by assuring compliance with environmental laws and regulations. Yet they each impose different data requirements, processes, and timelines, resulting in very long waits for completion of projects that require multiple permits.

Several models exist for permit consolidation. In the 2001 session, the Washington Legislature passed, and the Governor signed a bill (ESB 6188) specifying a streamlined permitting process for transportation projects. Similarly, California recently added a section to the Public Resources Code to establish a Permit Consolidation Zone Pilot Program (PCZ). These two laws have a number of similar elements. The PCZ implementing legislation and a guidebook are included among the supplementary materials posted on the Competitiveness Council website at <http://www.governor.wa.gov/wcc/wcc.htm>. Under the PCZ, a developer completes only one application, generally undergoes only one public hearing, and receives one permit that is the equivalent of all the environmental permits that would have otherwise been needed. One agency is appointed as the lead agency. If Washington were to create a Secretary of the Regulatory Reform, this Secretary should serve as the lead agency. The lead agency is responsible for setting up meetings, managing the entire process, and insuring that all of the participating agencies act on time. A critical element of to the PCZ system is that the permits are deemed issued if no action is taken by the required deadlines.

The Washington Consolidated Permit process, overseen by the Permit Assistance Center and created in 1995, was a step towards the PCZ model but fell short because (1) there was no enforcement mechanism to force agencies to take action by the required deadline, (2) it was overseen by Ecology (not an independent office such as the Secretary of Environmental Agency Oversight), and (3) it did not result in a single, consolidated environmental permit. These short-fallings are most likely why the development community never embraced the Consolidated Permit process.

Those projects that are not well suited to permit consolidation an alternative approach would be permit coordination. This approach would utilize a “team” of agencies, each responsible for their existing permit, with the agencies coordinating the use of applicant information, public meetings, and coordinating timelines. Such agency coordination could be done by executive action and would proceed more quickly than permit consolidation.

Recommendations:

- Create a pilot program modeled on the permit consolidation zone (PCZ). (legislation) The model program must be administered by an independent agency, must provide for a single environmental permit, and must hold agencies accountable for not meeting deadlines.
- Administratively adopt portions of the (PCZ) concept. (administrative action) In advance of legislation establishing a consolidated permit program in statute, Washington could adopt individual pieces of the permit consolidation zone concept such as the lead agency concept; case management approach; or alternatively, an early interagency review process. In designing these programs, the administration should evaluate the effectiveness of the following existing programs:
 - ✓ Regional permit coordination centers
 - ✓ Existing cost reimbursement contracts
 - ✓ The Environmental Excellence Program
- Issue an executive directive for coordination of multiple agency permits. (administrative action). Agency coordination of permitting responsibilities can be, and has been, done without the need to change statutory authority.

Other Views: Some council members caution that any change in permitting processes should not include the practice of automatic permit approval if no response is issued by an agency within a particular period of time. They are concerned that if permit review is incomplete, but the permit is deemed to be issued, unresolved permitting issues, which could include public safety and environmental concerns, would fall to local agencies for resolution. The goal of consolidation efforts should be better management of state permitting and not a state override of local permitting authority. More details and suggestions regarding permit timelines are included among the supplementary materials posted at <http://www.governor.wa.gov/wcc/wcc.htm>.

3.3.6 Improve Washington's water rights system

Increased demand for water combined with environmental protections, such as the Endangered Species Act, has created a diametric tension in the area of water rights. This tension has led to delays in the assignment of new water rights needed for growing communities, economic development, and agriculture. Federal action restricting water withdrawals has negatively impacted agriculture and economic development opportunities. As a consequence, Ecology is often unwilling to issue water rights, fearing action against it by federal agencies. The department should issue water rights consistent with state law and needs rather than worry about the federal agencies.

The lack of clarity in Washington's water law leads to a great deal of uncertainty for business as the department of Ecology attempts to implement the law. For example, Washington law defines "waters of the state" to include "lakes, rivers, ponds, streams, inland waters, underground waters, salt waters and all other surface waters and water courses within the jurisdiction of the state of Washington." RCW 90.48.020; WAC 173-216-040. This definition does not mention, and the Council believes is not intended to include, artificially created industrial ponds, such as waste treatment systems and cooling impoundments. Under federal law, the comparable term "waters of the United States" expressly excludes "waste treatment systems, including treatment ponds or lagoons." 40 CFR 122.2. By interpreting "waters of the state" to include artificially created industrial ponds, Ecology is most likely illegally extending its jurisdiction and authority and causing a great deal of uncertainty in the business community.

The lines of authority between state and federal regulators regarding water law are also unclear, and the Washington Attorney General (AG) has not been aggressive in testing exactly how far state laws can be implemented without running into federal preemption issues. This provides for uncertainty as well as an unneeded disempowerment of some of Washington's environmental laws.

In the 2001 legislative session, significant progress was made in amending the water code to provide more rapid administrative decisions, increased funding for local watershed planning, metering and stream flow measurements, tax incentives for conservation and improvements in the trust water program.

In preparation for the 2002 session, the administration is working jointly with the legislative caucuses to develop legislation to deal with in-stream flows, water for our communities, ways to deal with the water code's "use-it-or-lose-it" provisions, and to provide funding for capital improvements such as municipal and agricultural water delivery systems, storage and conservation.

Water policy is currently being made and executed without sufficient input from Eastern Washington.

Recommendations:

- Become more aggressive in defending state water law. (administrative action)
Washington's AG should more aggressively defend state water law against

conflicting federal policies. The AG must also proactively examine the intersection of state and federal law.

- Define “Waters of the State” More Fully. (WAC or legislation) Adopt, via legislation or rules, a definition of “waters of the state” that that does not include artificially created industrial ponds or the Legislature should pass legislation to the same effect.
- Appoint an Eastern Washington Water Representative to the Governor’s staff. Appoint an Eastern Washington technical representative – approved by direct water users – to advise the governor on the future actions of Ecology.
- Continue making progress in reforming water law. The Governor and the Legislature are currently exploring changes to Washington’s water law. The Competitiveness Council supports this effort.

3.3.7 Meet the goals of the Growth Management Act (GMA)

Achieving the goals of the GMA requires that the infrastructure needed to support the required densities is available. In 1999, the Local Government Infrastructure Funding Study found a gap of over \$3 billion between the funding needed and the funding available to finance the capital facilities plans of local governments. This lack of infrastructure funding threatens our ability to achieve the goals of the GMA and stifles development in the urban areas where growth is supposed to occur.

A number of recent development projects (Payne field, Mill Creek) have benefited from the use of area-wide SEPA review in conjunction with their comprehensive planning and/or promulgation of development standards. An area-wide environmental impact statement (EIS) allows local governments to plan their future development in a more environmentally sensitive and responsible manner. Once the area-wide EIS has been completed, each individual developer needs only prepare an environmental checklist or an addendum to the area-wide EIS. This saves the expense of an individual EIS, and a great deal of time. Local governments also save money because the environmental review for each proposed development would be less (since much of it would already have been done in the area-wide EIS) and increase tax revenues because more development would be allowed to occur. This could also reduce the cost of housing by reducing project-by-project EIS costs. Lack of affordable housing is a key competitiveness issue.

The primary obstacle to the more widespread use of this tool is a lack of funds available for the planning and environmental review work needed to develop and area-wide EIS. The Planning and Environmental Review Fund (PERF) was established in 1995 and funded with \$3 million. This money was provided to local governments to defray these expenses. The PERF funds were spent in the 1995-1997 biennium, and no additional funds have been provided. Some local governments also lack the expertise required to undertake an area-wide SEPA review.

Recommendations:

- Fund the infrastructure required to make GMA workable. (budget, legislation) Explore the use of tools such as tax increment financing for creating the opportunity to invest in new infrastructure.
- Annually and adequately fund the planning and environmental review fund (PERF). (budget, legislation) Funding alternatives such as the use of a LID mechanism should be explored.
- Provide local governments with procedural and substantive guidance for the environmental review of comprehensive plans and development regulations. (administrative action)
- Include an Economic Development Element in the Growth Management Act. (legislation) Amend the Growth Management Act to include a required Economic Development Element. This has been proposed in SB 6070 and HB 2056.
- Strengthen the positive incentives for complying with GMA. (legislation) Provide additional infrastructure funding for local governments that meet their GMA targets.
- Amend the Duplicative Appeals Statute (RCW 4.84.370) (legislation) The duplicative appeals statute requires a party that loses a third appeal of an agency or local government decision to pay the other side's attorney fees. Currently, opponents of projects are circumventing the statute by forming unfunded nonprofit corporations to undertake the third appeal. The statute should be amended so that appellants are required to post a bond in the amount of estimated attorney's fees.

Other Views: Local governments are concerned about making the economic development element mandatory. This element of GMA is currently permissive. Local governments believe this allows sufficient flexibility for those jurisdictions that want to address economic development in their comprehensive plans. A mandatory element would force local governments to engage in costly planning that is unfunded.

3.3.8 Create a Consolidated Land Use Code

In 1995, the Washington Legislature established the Land Use Study Commission to develop a consolidated land use code. Governor Locke succinctly stated the benefits of a consolidated land use code in Executive Order 98-01, which extended the Land Use Study Commission.

- Protecting and enhancing important environmental values;
- Improving the planning and permitting processes without sacrificing environmental protection;
- Improving cooperation among all levels of federal, state, and local government;
- Increasing public involvement in the land use system; and

- Assisting in the response to listings under the ESA.

The Land Use Study Commission concluded that the “idea of a consolidated land use code has the potential for many positive benefits” but that at the time of the report in 1998 “there [was] not the consensus necessary for its final development and adoption.” Further, “[a] consolidated land use code will take time to develop and implement. It will also require that adequate funding be an integral part of implementation.” The question presented today is different from that of 1998. Today, the state is threatened with an economic decline perhaps as great as that of the 1970s. While resources are fewer, the economic threat, exacerbated by our regulatory burdens, is far greater. Chapters four and five of the commission’s report, from which the previous quote was taken, is found in Supplement C of the supplemental material posted at <http://www.governor.wa.gov/wcc/wcc.htm>.

Recommendation:

- The Washington Legislature should develop a consolidated land use code that integrates all of Washington’s land use and environmental laws into a single manageable statute while maintaining environmental protections.

3.3.9 Reduce the number of environmental adjudicative bodies

Washington’s land use and environmental system provides a variety of appeal procedures and review bodies. In some instances, a decision can result in parallel appeals being heard by two different appellate bodies. Aside from internal agency appeal procedures and the formal judicial system, there are five hearings boards in Washington: the Pollution Control Hearings Board, Shoreline Hearings Board, Forest Practices Appeals Board, Hydraulics Appeals Board, and the Growth Management Hearings Boards. The Land Use Study Commission studied the consolidation of these procedures and bodies. Chapter 11 of the Commission’s report appears in Supplement D of the supplemental material posted at <http://www.governor.wa.gov/wcc/wcc.htm>.

Recommendation:

- Develop a unified hearings board system. (legislation). Combined the existing boards into a single hearings board. Appeals of the board’s decisions would be filed in the Court of Appeals, bypassing superior court. One variation would provide for regional hearings boards, similar to the three Growth Management Hearings Boards. Another variation would be to have one board, but with members appointed from around the state and sitting as regional panels.

Other Views: There are some on the council who are willing to explore the idea of consolidating the various boards but are concerned that such consolidation not be done in a manner that would diminish environmental protections. They also are concerned that consolidation must still acknowledge regional issues and differences. Finally, some feel that consolidation of the boards would only addresses a symptom of a problem, rather than the underlying problems themselves.

3.3.10 Benchmark and enforce local government permitting timelines

In the 2001 Session, the legislature passed ESB 1458, which imposes a 120-day time limit upon local governments for permitting determinations. Although this legislation is a step in the right direction, it will fail because it provides inadequate negative consequences. The only negative consequence for failing to make determinations in the required time-period is publication of that information on the local government's website.

Recommendation:

- Amend the time limit statute to provide that permits "shall" be issued in 120 days, rather than "should." Also, close the "additional information" loophole by imposing a maximum time limit with or without SEPA review.

Other Views: Some members of the council agree with the need to measure the timeliness of local permits, but have concerns about the mandatory nature of this recommendation. They believe that if a permit must be issued at the 120 day point, and local government cannot request more information, that the permits will simply be denied, further delaying the process for the applicant. In addition to benchmarking the timeline, these committee members recommend development of a well-defined process that will encourage early sharing of information between permitting officials, applicants, and stakeholders. Further comments about permit timelines are available in Supplement F posted at <http://www.governor.wa.gov/wcc/wcc.htm>.

3.3.11 Challenge to L&I's ergonomics rules

L&I adopted an ergonomics rule in May 2000 that will be slowly phased in over six years. The rule requires employers to reduce employee exposure to high hazards that are known to cause injuries

Business interests have challenged the rule and claim that compliance costs could be dramatically higher than L&I estimates.

At the request of the Governor, L&I has convened an expert, independent Blue Ribbon Panel to assess whether the rule is understandable, effective educational materials are widely available, demonstration projects are successful, and the enforcement procedures are fair and consistent. The Panel is expected to complete its report in February 2002. No enforcement of the rule will take place until this assessment of readiness is completed.

Recommendation:

- Delay the implementation of the ergonomics rule until the issues raised by business about its cost and necessity are addressed more fully.

Other Views: There are members of the Council that disagree with this recommendation. Each year, 50,000 worker injuries occur due to ergonomic issues. They believe that

public testimony has supported the rules, and that experts will analyze the rule as part of the Governor's blue ribbon panel. Any changes to the rule should come as a result of the panel recommendations.

3.3.12 Regulatory issues affecting affordable housing

Affordable housing is a competitiveness issue because a many companies find difficulty attracting quality workforce because they cannot afford to live reasonably close to their homes. Regulatory requirements that are overly burdensome can add cost to a home, and delays in obtaining permits can delay the availability of new housing.

The health of the condominium development industry is in jeopardy due to a series of legal but ethically questionable practices that entail taking the developer to court for technical code violations, regardless of whether the condominium owners have been harmed. As this practice has evolved in California, and is emerging in Washington State, the developers' insurers are either refusing to offer insurance at all, or are vastly increasing the premiums. In either case, the result is that builders can no longer afford to build condominiums. To those of us concerned about housing affordability, compact development and growth management, and the health of the state's economy, this is an extremely serious issue. Concerned parties are discussing remedies but no definitive conclusions have been reached at this point.

Recommendations:

- Establish Model Ordinances and Best Practices for Municipal Development (administrative action). Establish local model ordinances and best practices for the following types and development and issues:
 - ✓ Accessory housing unit
 - ✓ Cottage housing projects
 - ✓ Utilizing existing SEPA exemptions for housing projects
 - ✓ Setting concurrency standards at a level that allows development to occur in urban areas, (use area wide levels, rather than city wide)
 - ✓ Monitor proposed Ecology rule changes for new processes or non-project actions (governmental approvals of plans, policies, programs and regulations); OTED and governor's office to set timeline for rule adoption.

This effort would be staffed jointly by OCD, Association of Cities, and the local economic development councils. Model ordinances could be posted on the Municipal Research Center Web page.

- Search for and support a remedy to the legal issues facing condominium developers. Pursue legislation that requires the owner/developer to receive notice of defects and given the opportunity to address them. A notice of defect should be given within certain time periods after discovery. Third party warranties should be available, such as those available from the Residential Warranty Corporation. The legislation should also clarify of the definition of defective materials.



4.0 PHYSICAL INFRASTRUCTURE

4.1 Introductory Statement

Transportation, utilities, and telecommunications systems provide the basic support structures essential to a functioning economy. Insufficient physical infrastructure can significantly undermine the competitiveness of Washington’s businesses, the ability to attract new business, and the quality of life for Washington’s citizens. In short, the state’s infrastructure must ensure the fluid movement of people, products and information.

The Competitiveness Council has decided to address four general areas of physical infrastructure: transportation; water storage and transport systems; telecommunications infrastructure; and energy. By far, the most pressing infrastructure need facing Washington State is transportation. Efficient mobility of people and products is essential to the economic health of Washington on both sides of the Cascades. The statement below clarifies the Council’s position on the need for a statewide transportation solution.

Washington’s water laws and infrastructure do not adequately provide the tools we need to meet twenty-first century demands and responsibilities—for clean drinking water, for our business and agricultural economies, for our growing population, and for fish. Meeting those demands will require certainty and flexibility for water users, clear direction to those responsible for administering the water program, and improved water storage and transport infrastructure.

Businesses depend on access to affordable, reliable, state-of-the-art telecommunications services. State policy must ensure all businesses—large and small, urban and rural—have the telecommunications services they need. Businesses need to be able to choose among many service providers who compete on technology, price, service quality and customer service. In addition, we want our state policies to encourage telecommunications companies to invest in state-of-the-art infrastructure and services in Washington. This is especially critical in a state that is home to so many high-technology industries that depend on high-speed telecommunications.

Businesses also need affordable and reliable energy. During the past year, a near-record drought, failed energy restructuring in California, and growing demand for energy led to short supplies, unprecedented volatility in the wholesale energy markets, and significant retail rate increases throughout Washington.

Fortunately, Governor Locke and the Legislature took steps to increase supply and reduce demand in the Northwest, avoiding the power disruptions experienced in other states. However, Washington’s hydro-based utilities and the Bonneville Power Administration (BPA) were severely impacted.

To meet demand and their legal obligations, utilities and BPA were forced to secure significant amounts of power from the wholesale market. These wholesale purchases occurred at a time when prices were extremely volatile, reaching unprecedented levels and amidst changing federal regulations that govern wholesale markets.

Consequently, utilities have incurred sizable debts that have strained their financial conditions and diminished the confidence of the debt and equity markets. The reduced creditworthiness of utilities has negatively impacted their ability to access capital at reasonable cost, which, in turn, has undermined their capability to purchase power in the wholesale market to serve their customers and to maintain and upgrade utility infrastructure.

Policy makers at all levels must take steps to ensure the availability of investment capital necessary to develop critical energy infrastructure and to provide affordable energy supplies for the Northwest that are adequate into the future.

4.2 Specific issues of Priority

The issues of highest priority to the competitiveness Council within this area include:

- Passage of a long-term, comprehensive solution for Washington’s transportation system.
- Support for bipartisan solutions to the shortage of water storage for irrigation, power generation, and municipal use.
- Clarification of timelines, process, and criteria for siting and construction of energy and telecommunications facilities on public lands.
- Protection of Washington’s competitive advantage in energy pricing.

4.2.1 Passage of a long-term, comprehensive funding solution for Washington’s transportation system

Transportation is, by far, the most pressing infrastructure challenge facing Washington State. Washington citizens currently lose \$2 billion per year because traffic congestion wastes time and fuel and causes shippers’ delays—all of which increase costs for growers, manufacturers, merchants, and consumers.

The Competitiveness Council has drafted the statement on the following page that conveys the significance and urgency of the problem and our commitment to its solution.

Washington Competitiveness Council Statement on Transportation

The most important competitive investment the state of Washington can make is to improve its transportation infrastructure. Washington's currently overwhelmed transportation system threatens jobs and economic vitality, wastes people's time and money, diminishes quality of life, and degrades our environment. To ensure Washington State's prosperity in the future, given the interdependence of the economies both east and west of the Cascades, we **must** improve our ability to move people and products.

We have under-invested in transportation during the last 20 years. While population has grown (43%), as well as total employment (58%), vehicle miles traveled has increased (88%), along with tonnage of goods and freight moved on roads (116%). On an inflation-adjusted basis, the state is actually spending less per year now on transportation than we were 20 years ago. And more of what is spent goes to preservation, not improvement or congestion relief. We must secure long-term, stable, reliable and ongoing funding for our transportation systems. As we invest, our approach should be multi-modal.

To assure taxpayers their investment is well spent, the Washington State Department of Transportation (WSDOT) quickly adopt performance measures that will provide evidence that transportation investments are effectively addressing prioritized needs. The state's ability to invest will be further enhanced through a combination of various efficiencies, public-private partnerships, permit reforms, optimizing planning and other avoided costs. WSDOT as well as other local jurisdictions should prioritize their project commitments to address the worst problems first.

Regional funding authority and alternative financing mechanisms are critical parts of the solution. Any state revenue package must contain components that give regions the authority to address their own problems faster than they can by relying solely on state funding. State revenue sources should be used to address transportation projects with statewide importance. Additional creative financing alternatives and partnerships are needed at local and regional levels, such as sharing of bonding authority between different units of government and taxing jurisdictions. The Council also recognizes the need to fund transportation and other publicly owned infrastructure to encourage economic development and expansion in areas where growth is desired. The Community Economic Revitalization Board (CERB) is one mechanism for such funding.

Our commitment:

Members of the Washington Competitiveness Council believe that we must get past status quo politics and move toward solutions. We stand ready to work with the Governor and the Legislature to advocate for a comprehensive package of transportation solutions in the 2002 legislative session and beyond. The economic health of our state is at stake. Our citizens deserve performance and leadership from all of us that will make our state stronger and better able to compete in the challenging years ahead.

Recommendations:

- Washington must pass a long-term, comprehensive solution for Washington's transportation problem that includes long-term funding and accountability measures.
- The State should secure long-term, predictable funding for the Community Economic Revitalization Board (CERB) as a vehicle for transportation and other infrastructure investments tied to economic development.

4.2.2 Support for bipartisan solutions to the shortage of water storage for irrigation, power generation, and municipal use

In the 2001 legislative session, the administration made a substantial start (for the first time in almost 30 years) in amending Washington's water code to provide more rapid administrative decisions, increased funding for local watershed planning, metering and stream flow measurements, tax incentives for conservation and improvements in the trust water program.

In preparation for the 2002 session, the administration is working jointly with the legislative caucuses to develop legislation to deal with in-stream flows, water for our communities, ways to deal with the water code's "use-it-or-lose-it" provisions, and to provide funding for capital improvements such as municipal and agricultural water delivery systems, storage and conservation.

The Competitiveness Council supports this work and urges that the Legislature and the Governor find bipartisan solutions that make meaningful progress toward solving our water problems.

Recommendations:

- Support bipartisan solutions to address current and anticipated shortages of water storage for irrigation, power generation and municipal use. Water decisions must be timely, and must provide certainty and flexibility to meet known and unanticipated needs. In addition, water management programs must recognize environmental and fisheries requirements, and those requirements must be clear, reasonable and achievable.
- The state should invest in water infrastructure to match local, federal and private resources, to assure affordable, safe drinking water, and to reduce conflicts and increase future capabilities.
- The Joint Legislative Water Policy Group should address the coordination of inter-state issues affecting water in its current effort to reform Washington's water law.

4.2.3 Clarification of timelines, process and criteria for siting and construction of energy and telecommunications facilities on public lands

While state law requires local governments to act expeditiously in addressing telecommunications companies' requests to locate facilities along streets or rights-of-way, no such law applies to the state agencies that manage public lands and rights-of-way. This sometimes results in delays in siting facilities that are essential to economic development projects. This problem also occurs in the siting of energy facilities, including transmission lines and pipelines.

Recommendations:

- The State Department of Transportation and the Department of Natural Resources should establish processes that include firm timelines, clearly stated criteria and fair compensation for the placement of telecommunications and energy infrastructure on lands and aquatic lands under their respective jurisdictions.
- The State Department of Transportation and the Department of Natural Resources should consider the impact of the cost of utility infrastructure easements on the construction of facilities and the delivery of utility services to energy and telecommunications consumers in the state.

4.2.4 Protection of Washington's competitive advantage in energy pricing

Low-cost and reliable electricity is a critical element of Washington's economic infrastructure. The state's energy strategy must ensure the availability of that low-cost and reliable electricity. The state should follow through with its commitment for an extensive update of its energy strategy. The updated strategy must recognize that an abundance of energy generation capacity within the state is the best safeguard against volatile wholesale electricity prices and is essential to supporting energy-dependent manufacturing industries. Likewise, a diversity of cost-effective and reliable generation resources is the best hedge against volatile prices caused by poor hydropower conditions, such as those experienced in Washington during the past year.

In addition, utilities must be financially stable and viable to provide low-cost and reliable service. Utilities' financial health depends on their ability to recover expenses they have accumulated providing electricity to their customers when costs arise from conditions beyond their control, such as drought conditions, unplanned generation unit outages, and variable market prices for fuel supply. Utilities should be encouraged to make investments to limit their exposure to the wholesale markets and to shield themselves and their customers from future wholesale price fluctuations. Recognizing the changing dynamic of wholesale electricity markets and the impact it may have upon the financial resources of investor-owned utilities, regulators should endeavor to respond as quickly as possible to requests for rate approvals and to follow as much flexibility in cost recovery as may be necessary to enable utilities to provide reliable and cost-effective service.

Moreover, additional electrical transmission lines are needed in the Pacific Northwest to meet expected growth in energy demand. BPA has identified nine projects representing 300 miles of new transmission that are needed between 2002 and 2005. However, Congress and the administration have refused to support BPA's request for additional borrowing authority to complete these projects.

Recommendations:

- Governor Locke should act to assist in restoring the financial health of the state's utilities and to ensure that the political and regulatory climate in Washington is supportive of its utilities.
- The State should continue to press Congress and the federal administration to increase BPA's borrowing authority to ensure the completion of needed upgrades to the region's transmission infrastructure.
- Governor Locke should ensure that the state's updated energy strategy focuses on maintaining Washington's competitive advantage in supplying low-cost, reliable electricity to the region's energy-dependent businesses.



5.0 Human Capital and Innovation

5.1 Introductory statement about the issue

Human capital and innovation are the fundamental source of competitive advantage in the modern economy. As the “content” of our goods and services becomes more and more intellectual and less and less physical, the success of companies, industries, and states increasingly depends on the knowledge of their workforce, their access to new technology, and their ability to rapidly innovate. This new reality represents both an opportunity and a threat for the State of Washington. It affords an opportunity because we can take charge of our destiny and create our own competitive advantage through wise choices in K-20 education and the supporting infrastructure for new business creation and growth: We can be a national leader if we dedicate resources to this cause. But this new reality also poses a threat: other states and regions in the U.S. and around the world are already on this path. If we fail to act decisively, we risk losing our emerging leadership: our industries will not thrive and our children will not find satisfying, well paid jobs in Washington.

The fuel for creating competitive advantage is research and education. The state needs to manage our regional and research universities, our community and technical colleges, and our public schools as an integrated system for creating and renewing our human capital and capacity for innovation, so that:

- Science and technology from our research institutions renews our current industrial clusters and creates the foundation for industries and companies of the future by supporting new business formation and growth.
- Our colleges and universities produce the top-quality bachelors, masters, and doctoral graduates needed to sustain existing businesses and attract and create new ones.
- Our community and technical colleges provide new workers, incumbent workers, and displaced workers with the specific skills that they seek and business needs.
- Our students graduate from high school with the knowledge, skills, and competencies necessary to prepare them for higher education, lifelong learning and rewarding careers.

5.2 Specific issues of Priority

The issues of highest priority to the Competitiveness Council within this area include:

- Better support research, development and technology commercialization in strategically important industrial clusters.
- Increasing the supply of top-quality bachelors and masters graduates in science and engineering.

- Expanding the pool of educated workers in high-demand fields.
- Enabling all high school graduates to achieve high academic standards.

5.2.1 Better support research, development, and technology commercialization in strategically important industrial clusters

In *U.S. Competitiveness 2001*, Harvard’s Michael Porter observes that competitive success depends increasingly on building strong regional “clusters” – aggregations of companies and industries in allied fields that compete internationally. Mature clusters in Washington include aerospace, biotechnology, software, semiconductors, test instruments, medical devices and high-tech agriculture. And new clusters are emerging, such as clean-energy technology. Because such clusters are most often highly “intellectual capital-intensive,” our research institutions have contributed significantly to their formation and have the potential to do more. But the continued ability of these institutions to attract federal and industry research funds, as well as outstanding researchers, is jeopardized by the massive investments of other states in support of university-based research, including investment in faculty salaries, graduate student stipends, facilities and research initiatives. And while technologies developed at the state’s research institutions have helped create dozens of outstandingly successful companies and products, more could be done to maximize the return on research and encourage the establishment of new companies, especially high-growth potential “gazelle” companies in strategically important clusters.

Benchmark: R&D intensity (ratio of total R&D expenditures to gross state product) – Washington ranked 8th in 1998 (National Science Foundation, 2001) Goal: top 5 ranking by 2005.

Recommendations

Top Priorities for Immediate Action

- Identify industry clusters that are strategically important to the state’s economic future and form partnerships among business, government, education and research institutions to foster the creation, growth and retention of these clusters and use to guide investment decisions (administrative action).
- Provide universities with greater flexibility in setting tuition, so that they may increase faculty salaries and make other investments in strategically important fields (legislation).

Other Views: Engage faculty in salary and university investment decisions through a collective bargaining venue and through the Faculty Senate.

- Authorize the issuance of revenue bonds to finance the construction of new facilities through indirect cost recovery from federal research grants (legislation).
- Upgrade the technology commercialization function at the state’s research universities (budget allocation, administrative action).

Other Steps that can be Taken Quickly

- Systematically examine the impact of current and new taxes on public and private research and development (administrative action).
- More vigorously market the federal Small Business Innovation Research (SBIR) grant program to Washington businesses (administrative action).
- Exempt sales tax on research expenditures by universities, including expenditures for construction (legislation).
- Authorize purchase of land by universities through real estate contracts (legislation).
- Clarify the applicability of ethics law exemptions to faculty financial interest in commercialization of university-based research (legislation).
- Exempt SBIR grants from the B&O tax (legislation).

Priorities for Long-Term Investment

- Invest strategically in top-ranked university research programs in science and engineering fields and create more such programs to support strategic industry clusters (budget increase).
- Establish one or more university-based science and technology centers with facilities for research, technology commercialization and new company incubation (budget increase).

5.2.2 Increase the supply of top-quality bachelors and masters graduates in science and engineering

To provide the access that our citizens seek and the educated graduates that our businesses need, Washington needs to expand capacity at its colleges and universities. Of particular urgency is the need to address the shortage of top-quality Bachelors and Masters graduates, especially in science and engineering fields that support the state's strategic clusters., which This shortage requires Washington companies to recruit more expensively out of state and means fewer opportunities for Washington citizens.

Benchmark: bachelors and masters graduates in science and engineering – 3,594 bachelors and 697 masters in 1999-2000 (Higher Education Coordinating Board, 2001). Goal: at least double this number by 2010.

Recommendations

Top Priorities for Immediate Action

- Allocate university enrollment increases to high-demand fields, with a preference to programs that are of demonstrable top quality by national standards and/or obtain private sector matching funds (budget allocation).

- Develop a mechanism to finance higher education enrollments, fund educational scholarships and provide training to upgrade incumbent worker skills (e.g., per employee, per hour set-aside, legislation).
- Improve articulation between four-year institutions and community and technical colleges based on best practices here in Washington and from other states (administrative action).
- Encourage businesses to establish multi-year internship programs for university students (administrative action).

Other Steps that can be Taken Quickly

- Fund FTEs (enrollments) based on the cost of education in specific fields (budget allocation)

Priorities for Long-Term Investment

- Develop scholarship programs to encourage the most talented high school graduates to attend college in-state (budget increase)
- Expand bachelors and masters capacity in science and engineering (budget increase)

5.2.3 Expand the pool of educated workers in high-demand fields

Washington has a highly qualified workforce, but to compete successfully needs greater numbers of educated workers in high-demand fields that support strategic clusters. This is partly a matter of capacity and partly a matter of responsiveness to employer needs. The system needs to do a better job of training not just new workers, but also upgrading the skills of incumbent workers and retraining displaced workers so that they can re-enter the workforce.

Benchmark: Skills gap ratio (number of community and technical college students, private career school students, and apprentices prepared for work compared to the number of net job openings for workers at that education level) – 72.5 percent in 2000 (WTECB, 2001). Goal: 90 percent by 2005.

Recommendations

Top Priorities for Immediate Action

- Expand the Worker Retraining Program by funding additional enrollments to enable community and technical colleges match the state and federally funded tuition they will collect from unemployed workers seeking retraining (budget increase).
- Allocate community and technical college enrollment increases to high-demand fields, with a preference to institutions that obtain private sector matching funds (budget allocation).

- Develop a mechanism to finance higher education enrollments, fund educational scholarships and provide training to upgrade incumbent worker skills (e.g., per employee, per hour set-aside – legislation).
- Increase the capacity of the Job Skills Program to provide customized training for business recruitment or expansion (modest budget increase).

Other Steps that can be Taken Quickly

- Deploy federal and state workforce training dollars more strategically, with priority to local training partnerships aimed at preparing people to meet high demand occupations and the workforce needs of local industry clusters (administrative action).
- Develop applied technology bachelors programs, which enable community and technical college graduates to increase their skills to meet industry needs – begin with one or more pilot programs (administrative action, budget allocation or increase).
- Increase the role of registered apprenticeship in expanding and renewing the pool of skilled workers (administrative action).
- Require workforce development councils to demonstrate that their strategic plans address current workforce needs.
- Encourage regional partnerships among community and technical colleges and industries in strategically important clusters to better match curriculum with industry need (administrative action).

Priorities for Long-Term Investment

- Increase funding for vocationally oriented English as a Second Language and Adult Basic Education programs at community colleges (budget increase).

5.2.4 Enable all high school graduates to achieve high academic standards

While achievement is slowly improving, Washington’s children are far from achieving high academic standards. A growing number of students who speak English as a second language adds to this challenge. And there is a severe shortage of science and math teachers at all levels.

Benchmark: Percentage of tenth-graders meeting achievement standards (WASLs) in all four subjects (math, reading, writing, listening) – 29.5 percent in 2001 (OSPI, 2001). Goal: 75 percent by 2005.

Recommendations

Top Priorities for Immediate Action

- Maintain focus and accountability for K-12 educational reform (administrative action, legislation).

- Develop a long-term strategy for enabling all students to achieve high academic standards, including those who speak English as a second language (administrative action).
- Extend the school day and school year to leverage assets (administrative action).
- Create options for expanding the pool of qualified math and science teachers (e.g., differential pay, alternative routes to certification, faculty loaned from the private sector) (legislation).
- Better link K-12 academic standards and assessments to college admissions and business hiring (administrative action).

Priorities for Long-Term Investment

- Increase professional development support for teachers to obtain advanced credentials in science and mathematics (budget increase or allocation).
- Increase student access to advanced placement education in science, math and English (budget increase).
- Create smaller, more personalized learning environments (administrative action, legislation, budget increase).
- Develop means of addressing the impending shortage of teachers (e.g., increased pay, retraining of workers displaced from other fields, scholarships for college students who agree to pursue teaching careers – administrative action, budget increase).



6.0 Washington Competitiveness Council Key Performance Measures

Currently, a number of benchmarking studies that assess Washington’s business climate and competitiveness relative to other states are published by numerous sources. The following list represents the Competitiveness Council’s summary performance measures to track Washington’s competitiveness through measurable criteria. In addition to the summary measures, supplemental measures currently reported in various other benchmarking studies are also identified. The list of supplemental measures includes those measures highlighted by the Competitiveness Council subgroups but not contained in the summary measures. Finally, a comprehensive list of business climate and benchmarking sources is provided.

The Competitiveness Council recommends the following steps be taken to ensure the summary performance measures serve to track Washington’s competitiveness on an ongoing basis and are monitored, updated, published and utilized in a consistent manner.

- First, the Council recommends that the Economic Climate Council be reconvened to consider the following summary performance measures for inclusion as economic performance indicators in future publications of the Washington State Economic Climate Study, if not already included. In addition, the Council recommends that the Forecast Council continue to convene on an annual basis to review and discuss the indicators.
- Second, the Council recommends that the Governor emphasize to state agencies the use of these performance measures in internal policy analysis and agency performance reviews.

Overall Business Climate

Summary Measures--intended to highlight expansion of income and employment in Washington and to broadly represent the state’s general economic well-being.

- Real personal income growth
Source: Washington State Employment Security Department

2000 data:

WA (%):	3.5%
US:	4.2%

- Total number of new non-agricultural jobs and the percentage growth of non-agricultural jobs
Source: Washington State Employment Security Department

2000 data:

WA :	68,100
WA (%):	2.57%
US (%):	2.21%

Supplemental Measures

- Personal income in growth Washington by county (by gender, ethnicity, and income percentiles, where available) (*Washington State Employment Security Department*)
- Washington employment growth by sector (*Washington State Employment Security Department*)

Taxes and Fees

Summary Measures—intended to highlight the balance between the need for tax revenue for essential government services with the need to maintain a competitive tax environment for business.

- State and local tax collections per \$1,000 of personal income
Source: Washington State Department of Revenue

FY 1999 data:

WA:	\$111.25
US Avg	\$110.48
WA Rank	17 th (1 = highest burden)

- Share of Washington’s taxes paid by business—12 taxes (retail sales, use, property, B&O, real estate excise, cigarette, tobacco, public utility, beer, wine, liquor sales and liquor liter)
Source: Washington State Department of Revenue

FY 2000 data:

WA:	51%
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Supplemental Measures

- Proportion of taxes paid by businesses as a percent of gross state product relative to 7 western states (*Utah State Tax Commission, Western States’ Tax Burdens*)

- Effective UI tax rate: total unemployment insurance taxes paid divided by total wages. (*Washington State Economic Climate Study*)
- Wage replacement rate: average weekly benefit divided by average weekly wage (*Washington State Employment Security Department*)
- Unemployment insurance costs per unemployment rate: effective unemployment insurance tax rate divided by the 3-year average unemployment rate (*Washington State Economic Climate Study, Washington State Employment Security Department*)
- Counter-cyclical job creation effect: estimated jobs created as a result of household expenditure of unemployment insurance benefits, divided by total employment. Jobs created are based upon the employment multiplier for household spending (I-O model). (*Washington State Employment Security Department*)
- Fund solvency: unemployment insurance trust fund as a percentage of total wages divided by the average of the three highest calendar year benefit cost rates over the previous 20 years, or a period including three recessions if longer. (*Washington State Employment Security Department, US Department of Labor*)
- Benefits paid relative to wage loss: total benefits paid divided by the estimated wage loss. Wage loss is defined as total unemployment multiplied by the state median wage (if median wage is not available, then use state average wage). (*Washington State Employment Security Department*)
- Workers' compensation premium costs (*Washington State Economic Climate Study*)

Physical Infrastructure

Summary Measures—intended to highlight the adequacy of basic support structures to ensure the fluid movement of people, products and information.

- Urban Roadway Congestion Index (ratio of daily traffic volume to optimum volume for a given roadway)
Source: The Texas Transportation Institute

1999 Data:

Seattle-Everett:	1.3 (greater than 1 = congestion)
50-City Avg:	1.1
WA Rank:	46 th (1 = least congestion)

- Annual electric utility average revenue per kWh for all sectors

1999 Data:

WA:	4.10 ¢/kWh
US Avg:	6.66 ¢/kWh
WA Rank:	2 nd (1 = lowest)

Supplemental Measures

- Percent of households in each county with access to high-speed telecommunications infrastructure (*The data for this measure are not currently collected in Washington. The Competitiveness Council recommends that this data be collected and a measure developed when the data become available*)
- Interstate miles in poor condition (*Washington State Economic Climate Study*)
- FAA air traffic delays (*Washington State Economic Climate Study*)

Human Capital and Innovation

Summary Measures—intended to highlight the knowledge of Washington’s workforce, the access of that workforce to new technology and the ability of the workforce to rapidly innovate.

- Value added (output of manufacturing sector per worker) per dollar wage of workers in manufacturing
Source: US Census Bureau, Annual Survey of Manufacturers

1999 Data:

WA:	\$5.24 value added per \$ wage
US Avg :	\$5.78 value added per \$ wage
WA Rank:	29 th (1 = highest)

- Percent of students achieving proficiency in all four areas (reading, writing, listening, and mathematics) of the 10th grade Washington Assessment of Student Learning (WASL) achievement standard tests
Source: Washington State Office of the Superintendent of Public Instruction

2001 Data:

WA:	29.5%
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- Per capita research and development expenditures in the state.
Source: National Science Foundation

<u>1998 Data:</u>	
WA (total \$):	1,488
WA Rank:	6 th (1 = highest)

Supplemental Measures

- Skills gap ratio: the number of community and technical college students, private career school students, and apprentices prepared for work compared to the number of net job openings for workers at that education level (*WTECB Progress Measurement*)
- Bachelors and masters graduates in science and engineering (*Washington State Higher Education Coordinating Board*)
- Student to teacher ratio (*Washington State Economic Climate Study*)
- Education attainment: completed four years of high school or more (*Washington State Economic Climate Study*)
- Education attainment: completed bachelor's degree or more (*Washington State Economic Climate Study*)
- Total public two and four year combined participation rate (*Washington State Economic Climate Study*)

Permitting and Regulation

Summary Measure—intended to highlight the effectiveness of the Washington's environmental regulatory system.

- Time required to process land use/environmental permits
Source: State and Local Regulatory Permitting Agencies

Currently under development : The Competitiveness Council recommends that each agency log and track permits for land use, habitat/species protection, water quality and air quality (including all permits approved by the Energy Facility Site Evaluation Council). Tracking should include, at a minimum:

- ◆ the number of permit applications pending,
- ◆ the number of permits denied/approved,
- ◆ calendar time from date of application to approval or rejection, and
- ◆ permits appealed.

Specific benchmarks should be developed once the data are tracked. Where permit revenue does not cover the cost of a tracking system, alternative sources should be considered.

Quality of Life

Supplemental Measures

- Air quality index: percentage of a state’s population living in areas where air pollution levels exceed the allowable national standards (*Washington State Economic Climate Study*)
- Drinking water: percentage of residents served by water systems in violation of maximum contaminant levels (*Washington State Economic Climate Study*)
- Toxins released from industrial facilities (*Washington State Economic Climate Study*)
- State health index: general health of the population (*Washington State Economic Climate Study*)
- Parks and recreation areas: per capita visits (*Washington State Economic Climate Study*)
- State arts revenue per capita (*Washington State Economic Climate Study*)

The table that follows summarizes benchmarking studies currently published with measures relevant to Washington’s competitiveness. By including this table, the Competitiveness Council makes no determination about the accuracy or quality of any of the studies.

Business Climate Background and Benchmarking Studies

Document	Author	Brief Summary	WA Rank	Where Available
BACKGROUND LITERATURE				
Keeping Washington Competitive, The Need for a Healthy Business Climate (Oct. 2000)	Washington Alliance for a Competitive Economy	Assessment by the business community of infrastructure, education, tax and regulatory structures, and quality of life in Washington.	No composite rank	http://www.waroundtable.com (Click on the ACE Report)
WA rankings on Relevant Measures from Various Studies (2000)	Washington State Department of Revenue	One-page summary of various measures and how Washington ranks relative to the national average.	No composite rank	Table attached.
Statewide Strategic Plan for Economic Vitality (2001)	Washington State Office of Trade and Economic Development	Goals and strategies intended to provide a framework for the public sector (in both a lead and supporting role) to promote and maintain economic vitality in Washington.	N/A	Http://www.oted.wa.gov/dbs/pubs/index.tpl?nav=T
Creating Opportunity Through Technology: Washington's Strategy for the Innovation Economy	Washington State Office of Financial Management	Strategic framework to enable government, business, education and nonprofit sectors to make investments and take actions to sustain and enhance a technology-driven innovation economy in Washington.	N/A	Http://www.governor.wa.gov/innovation/strategy.htm
GENERAL BUSINESS CLIMATE STUDIES				
Washington State Economic Climate Study (Sep. 2001)	Washington State Office of the Forecast Council	Data and benchmarks to compare Washington's quality of life, education and skills of the workforce, infrastructure, and cost of doing business with other states and national averages.	No composite rank	Http://www.wa.gov/ofc/pubs/cli/m0900.pdf
Development Report Card for the States 2001	Corporation for Enterprise Development	Annual assessment of each state's economy and potential for future growth based upon more than 70 data measures in the areas of performance, business vitality and development capacity Detail of Washington's report card is available.	Performance: A Vitality: A Capacity: A	Http://www.cfed.org (Click on Report Card for the States)
Small Business Survival Index 2001: Ranking the Policy Environment for Entrepreneurship Across the Nation	Raymond Keating, Small Business Survival Committee	Ranks small business survival based on 17 government-imposed or government-related costs impacting small businesses and entrepreneurs for all states.	Overall: 3 rd	http://www.sbsc.org/Media/pdf/SBSI2001.pdf?FormMode=&ID=0
The Metropolitan New Economy Index (April 2001)	Progressive Policy Institute	Assessment and comparison of 16 indicators to measure characteristics of the New Economy (globalization, economic dynamism and competition, transformation to a digital economy and innovation capacity) for the 50 largest U.S. metro areas, including Seattle.	Seattle overall: 3 rd	http://www.neweconomyindex.org/

Document	Author	Brief Summary	WA Rank	Where Available
The State New Economy Index (July 1999)	Progressive Policy Institute	Assessment and comparison of 17 indicators to measure characteristics of the New Economy (globalization, economic dynamism and competition, transformation to a digital economy and innovation capacity) for 50 states.	Overall: 4 th	http://www.neweconomyindex.org/
State Index: Business Retention: Survival and Growth	BizMiner	Tracks firms nationwide and measures retention rate, survivor sales growth, survivor job growth and job replenishment.	Overall: 43 rd	Http://www.bizbenchmarks.com/brandow/freereports.htm (Available only by purchase)
2001 Competitiveness Redbook: Key Indicators of Washington State's Business Climate	Washington Alliance for a Competitive Economy	Compilation of 43 business climate indicators comparing Washington State to the rest of the US. Indicators include employment, education, energy revenue, income, transportation, and tax statistics, as well as others.	No composite rank	http://www.awb.org/services/MaIl/storedredbook.htm (Available only by purchase)
Economic Freedom in America's 50 States: A 1999 Analysis	John Byars, Robert McCormick, Bruce Yandle; Clemson University	Composite index of "economic freedom," the right of individuals to pursue their own interests through voluntary exchange under a rule of law, for all states. More than 100 measures, including government spending, regulation, welfare, school choice, taxation, and the judicial system, are used.	Overall: 40 th Regulatory: 45 th	http://freedom.clemson.edu/repo/rt.color.PDF
North American Business Cost Review (2000)	Economy.com (RFA Section)	Ranks relative costs of doing business (unit labor costs, effective tax burdens and energy costs) by state and major cities relative to the national average.	Overall: 20 th Unit Labor: 7 th Energy: 50 th Taxes: 6 th	http://economy.com (Available only by purchase)
TAX BURDEN STUDIES				
Comparative State and Local Taxes, 1998	Washington State Department of Revenue	Measures tax burdens by ranking state and local taxes per \$1,000 of personal income and per capita in 1998.	Per \$1000: 17 th Per Capita: 13 th	http://dor.wa.gov (Click on Publications, then click on Statistical Reports)
Overall Tax Burdens by State (2000)	Tax Foundation	Ranks state and local taxes as a percent of income.	State: 17 th	http://www.taxfoundation.org/pr-state/local00.html
Western States' Tax Burdens: Fiscal Year 1999-2000	Utah State Tax Commission, Economic and Statistical Unit	Ranks taxes paid by businesses and households for the 11 western states.	Businesses: 1 st Households: 7 th	http://txdtm01.tax.ex.state.ut.us/ESU/BURDENS/Burdens.htm (Click on study)
HIGH TECH BUSINESS CLIMATE STUDIES				
Washington Index of Innovation and Technology (2000)	Washington Technology Center (WTC)	Measures the relationship between the prosperity and vitality of Washington, its residents and the innovation and technology drivers of the economy with indicators in innovation, competitiveness, growth, financial capacity, human potential and quality of life.	No composite rank	http://www.watechcenter.org/tech/index/index.html



7.0 Minority Views

7.1 Minority Summary Statement from Labor Representatives

Given the Competitiveness Council's task, membership representation, and process for deriving recommendations labor finds itself in the position where the best way to accurately reflect our views on this most important issue is through a minority summary statement in the Executive Summary of the report and minority comments in the main text of the report.

First off we would have preferred to serve on a committee with equal representation from labor, business, community and environmental groups to assess our state's overall economic climate, vitality, and diversity. Such a process, we believe, would have resulted in a more balanced and comprehensive set of recommendations that would have been able to address an economic stimulus package for the current recession as well as a direction for long term economic growth.

Washington State is facing a fiscal crisis of serious proportions. This crisis will impact the level and quality of services that we can provide to the poor, the elderly, and our children. It will also impact the employment, wages and benefits, and working conditions of our public sector workforce. It is not fair to expect the poor and working families to make up the brunt of the \$1.2 billion budget shortfall. Business must be responsible and shoulder part of the burden as well.

Over the 2001-2003 biennium our Senate Ways and Means Committee estimates \$6.9 billion in General Fund tax exemptions. The truth is we can no longer afford to maintain this existing level of tax exemptions. We need to assess these exemptions and to close some of them. We need to also enact a subsidy disclosure law that allows us to evaluate the social return we get from our body of tax exemptions and incentives.

At the same time it is important for us to recognize that our current fiscal crisis goes well beyond the current recession and the aftermath of the terrorist attacks of September 11. Our crisis is squarely rooted in our regressive tax structure and the inability of our tax system to generate sufficient funds to meet the growing needs of our economy and society. Unlike the business community the general public perceives that they pay a disproportionately high share of our state's taxes and this has resulted in the passage of two popular anti-tax initiatives that have further hamstrung our revenue base. It is time to seriously analyze the regressivity of our tax structure, on both individuals and businesses, as well as the need to generate additional revenue in the system.

The February 28 earthquake and September 11 have highlighted in dramatic ways the exemplary level of commitment and quality of service provided by our public sector workforce. Another key to putting our fiscal house in order is to enact legislation granting collective bargaining rights for state employees which is not only the right thing to do but would for the first time allow true bargaining over efficiencies in state government.

For the past decade the legislature, the executive branch, and various stakeholders have been engaged in a serious debate over government regulations and regulatory reform. Labor has been an outspoken advocate for clear rule writing, removing inconsistencies and duplications, and creating rulemaking processes that are fully participatory and fair. We also support permit streamlining so long as we maintain strong environmental standards.

We do not support the Council's recommendation for a cabinet level secretary of regulatory reform. The Governor already has the ability to demand accountability from his agencies and the Council anticipates roles for the secretary that run counter to civil service parameters. Real efficiencies will only come about through real collective bargaining.

Nor can we agree with the Council on recommendations to change the Administrative Procedures Act. For example, shifting the burden of proof from the petitioner of a rule change to the agency takes well-established legal and administrative principles and turns them upside down. This is a recipe for tying up agency resources, getting them to second guess every move, and inhibiting them from implementing the law.

Labor vehemently opposes any delay in the ergonomics rules. Over 50,000 workers a year in Washington State are injured or crippled by largely preventable ergonomic injuries. Some major corporations in this state have already significantly reduced these types of injuries and saved millions of dollars by implementing simple ergonomic principles. The issue of ergonomics has been debated and dissected for the last decade, it is now time to move forward with preventing injuries.

We believe that the single biggest source of our region's competitive disadvantage is traffic congestion. The Council's position could be strengthened by demanding that the legislature itself vote for a statewide transportation financing package and to agree to back up those legislators who take the vote during the election season.

The human capital and innovation section of the report brings into sharp relief the need for our state to increase our revenue base. Allowing universities more flexibility in setting tuition may have some impact but until we have more revenue to work with and a more progressive, stable, and predictable revenue structure all we have is a zero sum game where one set of competing needs are set off against another.

Any discussion of faculty salaries and investments in strategically important fields needs to be done in the context of collective bargaining for higher education faculty and faculty governance organizations.

Finally what we measure makes a difference. From a labor and social perspective we would like to know how the wages and benefits of the net new jobs created in our economy stack up to the Washington State self-sufficiency standard for the counties in which the jobs were created.

This type of information would be very useful to elected officials and policy makers in assessing the effectiveness of our economic development and fiscal policies and would as well allow us to engage in some goal setting for our economic benchmarks. What we measure and where we are trying to go makes a difference.

Respectfully submitted,
Rick S. Bender, President
Washington State Labor Council,
AFL-CIO

Roger Boatwright, Executive Secretary
Washington State Building & Construction
Trades Council, AFL-CIO

7.2 Minority Summary Statement from Lucy Steers

My comments focus on Section 3. I agree with much of this section, but have several specific concerns.

First, I am most aware of, and sympathetic about, the instances of poor customer service that many in the business community have experienced with permitting agencies. I am aware that such experiences are quite common, and that they produce not only frustration but often a quite substantial addition of time and cost to projects seeking permits. I am also aware that these problems occur not only with state agencies, but at the local level as well.

However, I am also aware that many in the environmental community believe that permitting agencies at various levels do not fully or properly enforcing existing regulations, but instead buckle to pressure from anxious applicants to approve a permit prematurely. In both instances the perspectives are derived from anecdotes, so it is hard to determine the exact nature and extent of the problem. For this reason, I strongly support the recommendation of our subcommittee that perceived problems within agencies must be benchmarked. The resulting data would provide an essential foundation for a systematic and appropriately targeted reform process.

Secondly, I am concerned that even as our report asks the reader to differentiate between underlying problems and the negative ramifications which are symptoms of those problems, several of our recommendations seem directed more to the symptoms than to the underlying problems. These include the proposal for negative incentives (especially automatic permits) to address delays in permitting decisions, and the call to consolidate five environmental hearings boards into one. I believe that both these recommendations are ill advised, in that they address symptoms rather than the inherent problems, and both are likely to result in serious negative consequences. I have outlined these concerns in greater detail in a memo which can be found in the supplementary material on the WCC website <http://www.governor.wa.gov/wcc/wcc.htm>

Finally, I have concerns about some language in the proposal for a Secretary of Regulatory Reform, although I support the overall concept. I am one of the subcommittee members who would like to see this function carried out by existing staff as long as the state is undergoing serious budget constraints. I also question whether that position should be authorized in order to make government performance more responsive to permit applicants, as our report seems to suggest (although the language has improved on that score). Rather, that individual's charge should be implementing reforms in order to increase the efficiency, effectiveness and professionalism of agencies. This would be advantageous to all citizens, not just to permit applicants, and therefore would be easier to implement politically. I am also uncomfortable with the Regulatory Reform person having the power to summarily fire state employees. That really should be done through the usual channels. However, reforms must be put in place that allow strong oversight and careful documentation of performance, so that unprofessional behavior, including undue delay, could be dealt with in a timely and appropriate fashion.

All in all, I think the best answer to the problem of our “vast patchwork” is to fix the patchwork, not the symptoms. That means cultural and management reform of agencies, simplifying and streamlining laws (perhaps even a consolidated land use code), beginning the implementation, at

least on a pilot basis, of some of the more effective programs employed elsewhere for permitting efficiencies, and then (and only then) adapting the appeals and public involvement procedures to the new legal and administrative context. It is a given that agencies must be adequately funded to provide needed management oversight, training and support. Above all, staff professionalism should be demanded, encouraged and rewarded. This would be of benefit to all Washington's citizens.

Submitted by Lucy Steers

APPENDIX A

**EXECUTIVE SUMMARY OF THE MUNICIPAL TAX
WORK GROUP**

EXECUTIVE SUMMARY OF THE MUNICIPAL TAX WORK GROUP

Background

City business and occupation taxes raised more than \$190 million in 1999 for 37 cities. On average, these taxes made up almost twelve percent of the operating revenue of those cities.

For several years, the business community has been concerned about city business and occupation taxes. Major concerns include the lack of uniformity among the cities and the potential for multiple taxation of income by two or more cities.

The cities acknowledge these concerns and have worked toward a more uniform system through the development of a model ordinance. The cities are concerned about maintaining control over their own finances and preserving their flexibility to deal with unique local conditions.

Business and the cities worked together trying to achieve a mutually agreeable solution but were unable to reach one through spring of this year.

The Municipal Tax Work Group

In May, the Governor asked Fred Kiga, Director of the Department of Revenue at the time, to bring the parties together to try again to resolve their differences. If the parties could not reach agreement, he asked the Department of Revenue to make its own recommendations.

The Work Group met on a weekly basis from August to October. Substantial progress was made in a number of areas, but some issues were not resolved.

Agreed upon issues:

- Nexus should be determined by Commerce Clause standards.
- Limits on the duration of business licenses should be removed.
- There should be no multiple taxation of income.
- There should be no credits for dissimilar taxes.
- Utility activities should be excluded from business and occupation tax.
- New business and occupation requirements should be mandated by state law.
- Software development should not be included in the definition of manufacturing.

Unresolved issues:

- Should there be uniformity with state business and occupation tax provisions?

- How should income be allocated and apportioned?
- How should revenue impacts of a new city business and occupation tax structure be dealt with?
- How long would cities have before adopting the new mandatory provisions?

Department of Revenue Recommendations

The Department's recommendations encompassed those areas where the parties agreed and also included recommendations on those issues where there was no agreement.

The Department recommended that legislation be proposed in the 2002 session that imposes the following requirements on cities imposing a business and occupation tax:

- Cities imposing business and occupation taxes must comply with all requirements within three years of the effective date of state legislation imposing the requirements.
- Activities taxed by cities as utilities prior to the effective date of the state legislation should continue to be taxed under city utility taxes.
- Multiple taxation of the same income should be eliminated through a uniform system of credits.
- Uniform definitions conforming to those in the cities' proposed model ordinance should be adopted to the extent necessary to implement a system of credits to eliminate multiple taxation.
- A business should not be subject to tax by a city unless it had both nexus under Commerce Clause standards with the city and it received a threshold amount of gross income from taxable activities in the city.
- Cities should be free to adopt any exemptions, deductions, and credits they chose.
- City business and occupation taxes should be identical to the state business and occupation tax with respect to due dates, penalties, interest, and statutes of limitation.
- Cities should be given the authority to issue business licenses for more than one year at a time.

The Department also recommended that it continue meeting with Working Group members to develop policy options on the issue of apportionment of income. These options would be presented for the Governor's consideration prior to the 2003 legislative session.

APPENDIX B

**DRAFT LEGISLATION REVISING INVESTMENT INCOME
PROVISIONS**

Brief Description: Implementing the recommendations of the investment income tax deduction task force for the business and occupation tax.

AN ACT Relating to implementing the recommendations of the investment income tax deduction task force for the business and occupation tax; amending RCW 82.04.4281; creating a new section; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec. 1.** The legislature finds that the application of the business and occupation tax deductions provided in RCW 82.04.4281 for investment income of persons deemed to be "other financial businesses" has been the subject of uncertainty, and therefore, disagreement and litigation between taxpayers and the state. The legislature further finds that the decision of the state supreme court in *Simpson Investment Co. v. Department of Revenue* could lead to a restrictive, narrow interpretation of the deductibility of investment income for business and occupation tax purposes. As a result, the legislature directed the department of revenue to work with affected businesses to develop a revision of the statute that would provide certainty and stability for taxpayers and the state. The legislature intends, by adopting this recommended revision of the statute, to provide a positive environment for capital investment in this state, while continuing to treat similarly situated taxpayers fairly.

Sec. 2. RCW 82.04.4281 and 1980 c 37 s 2 are each amended to read as follows:

(1) In computing tax there may be deducted from the measure of tax:

(a) Amounts derived (~~((by persons, other than those engaging in banking, loan, security, or other financial businesses,))~~) from investments (~~((or the use of money as such, and also))~~); and

(b) Amounts derived as dividends or distributions from capital account by a parent from its subsidiary ((corporations)) entities.

(2) The following are not deductible under subsection (1)(a) of this section:

(a) Amounts received from loans or the extension of credit to another, revolving credit arrangements, installment sales, the acceptance of payment over time for goods or services, or any of the foregoing that have been transferred by the originator of the same to an affiliate of the transferor; or

(b) Amounts received by a banking, lending, or security business.

(3) The definitions in this subsection apply only to this section.

(a) "Banking business" means a person engaging in business as a national or state-chartered bank, a mutual savings bank, a savings and loan association, a trust company, an alien bank, a foreign bank, a credit union, a stock savings bank, or a similar entity that is chartered under Title 30, 31, 32, or 33 RCW, or organized under Title 12 U.S.C.

(b) "Lending business" means a person engaged in the business of making secured or unsecured loans of money, or extending credit, and (i) more than one-half of the person's gross income is earned from such activities and (ii) more than one-half of the person's total expenditures are incurred in support of such activities.

(c) The terms "loan" and "extension of credit" do not include ownership of or trading in publicly traded debt instruments, or substantially equivalent instruments offered in a private placement.

(d) "Security business" means a person, other than an issuer, who is engaged in the business of effecting transactions in securities as a broker, dealer, or broker-dealer, as those terms are defined in the securities act of Washington, chapter 21.20 RCW, or the federal securities act of 1933. "Security business" does not include any company excluded from the definition of broker or dealer under the federal investment company act of 1940 or any entity that is not an investment company by reason of sections 3(c)(1) and 3(c)(3) through 3(c)(14) thereof.

NEW SECTION. **Sec. 3.** This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately.

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Appendix C

Increasing Agency Responsiveness and Accountability: A Case Study of Renton's Regulatory Reform

RENTON: A CASE STUDY IN REGULATORY REFORM

In Renton, the call to change came from complaints from the business community and the Chamber of Commerce, who were (rightfully) upset with the slow, unpredictable and costly permitting process in Renton, and the mounting backlogs of permit applications. The Mayor at the time told the managers that we needed to correct this situation, in an initiative that he termed “getting to yes”.

At the outset the permitting regulatory reform process in Renton took about two years (with continual progress and improvements being made during that time period). Outcomes included: Renton’s site plan approval process, including environmental review and site plan determination, formerly took at least 26 weeks. Now we take 10 to 12 weeks. Full subdivisions, including environmental review, preliminary plat approval, and construction permit issuance for streets and utilities, construction and inspection of these facilities, and approval and recording of the final plat so that lots could be sold, formerly averaged about 80 weeks. Now it averages 34 weeks. In two years, Renton reduced their turnaround time by over 50% without changing or adding to staff, and without negatively impacting residents or the environment. The reason: they found in the review and permitting process numerous inefficiencies, duplications, stops and starts, moving targets, lack of individual accountability, and most important, lack of clear direction from management on such critical issues as permit turnaround time goals and customer service expectations.

RENTON’S REGULATORY REFORM – WHAT WE DID

1. **RECOGNITION OF PROBLEM AT THE TOP:** The Mayor at the time was hearing significant complaints from the business and development community about Renton’s flawed regulatory and permitting process. He also recognized that sustainable economic development was essential to Renton’s vitality and financial future, and that the flawed regulatory process was interfering with that essential need. After investigating the situation, he determined that there was a real problem, and that changes needed to be made.
2. **THE MAYOR ISSUES STATEMENT OF PROBLEM, AND ORDER TO CORRECT:** The Mayor met with the Department Administrators, including myself, and clearly stated the problem. He tasked the Department Administrators to investigate the problem, establish improvements to the regulatory and permitting process, and to implement the improvements. He made it clear that he would rely on the expertise of his management staff to resolve the problem, but made it equally clear that we would be held accountable for our success or failure. He requested regular progress reports, and directed us to get to work immediately. He gave a name to the initiative, “Get to Yes”, meaning proactively finding a way to accommodate the city’s needs to encourage sustainable economic development. Naming the initiative turned out to be very important – it gave the initiative an easily recognizable identity in the minds of all employees.

3. **ADMINISTRATOR EVALUATES PROBLEM WITH DEPARTMENT MANAGERS:** First, the mission had changed: previously the City had not much cared if developers received their permits or not, and so the emphasis on permit review was intense scrutiny by staff to assure that we achieved “the perfect project”. Renton had established an elaborate, duplicative, and unclear review process to assure that every element of a project was evaluated and then reevaluated. Their reviewers had no hesitation in continually requesting new information from the applicant, or moving the target or changing the requirements based on a sudden “new opinion”. There were numerous starts and stops, and staff did not place much priority on the amount of time the process took. They realized, with some chagrin, that this convoluted process was the result of their own management. They had not established permit turn around time goals or customer service as a priority. Left pretty much to themselves, staff did what they did best (and liked most): evaluate, scrutinize, implement their training, call for modifications and changes to achieve perceived improvements. Permitting time became interminable, and all the while permit applications backed up. They determined pretty quickly that the problem was not insufficient staff resources. Rather, they would have to change the mission, establish new priorities, educate the staff on these new priorities, simplify the process, and instill an improved and better defined customer service ethic in the staff, and make the individual staff members accountable for achieving these new directives.
4. **MESSAGE TO STAFF:** Management told the staff that the mission would be changing, and that the directive had come from the top. The “get to yes” initiative was explained, and staff was told that they would be relying on their expertise to help bring about the needed changes. They took great pains to let them know that the changes were necessary but would be participatory, and that they would be key players and change agents. They also tried to let them know that the changes were due to a new direction, not because they were doing a bad job. They encouraged their suggestions. To achieve results, they identified that was needed to expedite the process, provide more proactive management so that the staff would get the message, improve customer service, set goals and timelines, and demand accountability from the staff members.
5. **STREAMLINING THE PROCESS:** Two elements had to be addressed: assessment of local laws established by the City Code to determine whether code changes would be needed to implement streamlining of the permit review process, and review of their internal administrative process. The most productive part of the process streamlining efforts was the work with internal administrative process. They first charted their administrative process for several of the most prevalent types of land use permit. They did this by drawing process flow charts. They made sure that every step was reflected in the flow charts. The results were somewhat horrifying. There were so many nodes and loops in the flow charts, and so many series rather than parallel reviews, that the flow charts could only be fit on poster boards! The processes were replete with duplications, with start and

stop points, with assembly line type approaches where one piece of review was done at a time, in series, and which allowed the whole review process to come to a screeching halt if there was a problem with one small element of the review. They immediately set to work chopping out redundancies (actually did away with a whole staff-composed review panel that did not add much value but slowed the process down), changing series steps to parallel steps so the process would not be halted due to minor issues, and took a rigorous “value engineering” approach in which steps were removed which did not add sufficient value to the process to justify the time and staff resources they consumed. They involved staff in this effort, but it was the managers who made the decisions. Very quickly they arrived at streamlined processes that in themselves not only sped up the permitting process, but freed up staff resources to tackle the growing backlog of permit applications. They were also prepared to make adjustments as needed if the revised processes had unforeseen negative consequences, but found this was rarely the case. This step solved part of the problem, but there was still work to do.

6. **PROACTIVE MANAGEMENT:** They worked hard to make it clear to the employees that the mission was changing and why, explained the “get to yes” initiative from the mayor, and worked with staff constantly to familiarize them with the new streamlined processes. They also worked to instill an improved customer service ethic. They made sure they knew that the goals of professional permit review, protection of the environment, protection of the neighborhoods, proper public notification were as strong as ever, but they were overlaying on top of that an improved process to accomplish those goals. And they were adding new goals to the others: established permit turnaround times, and superior customer service requirements. They found that many of their employees did not view permit applicants as “customers” at all, but rather as “the enemy” who wished to encroach on neighborhoods and pillage the environment. They identified quickly that permit applicants had to be perceived as customers by staff if they were going to accomplish our mission, and they worked hard at this (this requires a continuing effort). They had continued resistance (of the passive/aggressive type) from a couple of employees, and they ultimately had to be told that the mission had changed and they had a choice to make: accept and participate in the revised mission, or find work in a place more congenial to their philosophies. No one ultimately lost their job.
7. **SUPERIOR CUSTOMER SERVICE:** This was one of the most important features of our regulatory reform effort. None of the other steps would yield success if they would not be able to instill an improved customer service ethic in the staff members. This effort had several elements:
 - Identify permit applicants as customers rather than “the enemy”. Permit applicants must be treated just like businesses must treat their customers. Because government has the power to operate like a monopoly is not an excuse for poor customer service.

- Superior customer service involves prompt communication and response to questions. Set a goal of responding to all customer questions within 24 hours.
- Establish turnaround times, and make individual staff members responsible and accountable for maintaining the permit application turnaround times for their assigned projects.
- Establish a work ethic in which delays are considered just as unacceptable to staff as they are to the permit applicants, and in which the customer concerns and needs actually matter.
- Establish guidelines as to when enough review is enough review. In Renton this took the form of what was called “the 80% rule”. It was recognized that 80% of the time and effort was being dedicated to the last 20% of improvements in a project. Very often, this last 20% was subjective – improvements in the eye of the reviewer. They determined that expending 80% of the time and effort on the final 20% of the improvements was placing them in a situation in which the ends did not justify the means, both in terms of invested staff resources and actual value added to the project. They therefore established rules governing at what point in the review process new review comments would no longer be accepted or new information requested (unless there was a demonstrated major unforeseen need, and in these cases the reviewer would be taken to task for not foreseeing this need earlier in the review process).
- Establish staff accountability: meeting turnaround targets is an important element of the staff member’s annual performance review. Continued failure to meet these targets could subject the staff member to corrective actions.
- Establish a sense of staff advocacy for the permit they are reviewing. Create an approach in which staff utilizes their skills to resolve problems rather than to set up roadblocks.

These were the steps that Renton took in our regulatory reform process, and they have achieved an absolute turnaround. Regulatory staff processes permits and other land use actions in less than half the time that they did five years ago. In addition to helping to achieve the City’s larger goals of promoting sustainable economic development and improving City revenues due to the more vibrant economy in the City, expanding the job base, and improving the standard of living, they also have achieved a good reputation with the development community. The customers are pleased with the changes, and staff can handle a much bigger work load since they are spending less time with each individual permit application. The work force has been freed up and they are achieving much higher levels of productivity. Protection of the environment and the neighborhoods from impacts of development have remained high priorities, and have not suffered. In short, every interest has been a winner.